Nos. 16-2297, 16-3162 & 16-3271

# U.S. Court of Appeals for the Seventh Circuit

HOBBY LOBBY STORES, INC.,
*Petitioner, Cross-Respondent,*

v.

NATIONAL LABOR RELATIONS BOARD,
*Respondent, Cross-Petitioner,*

and

COMMITTEE TO PRESERVE THE RELIGIOUS RIGHT TO ORGANIZE,
*Intervening Respondent.*

ON PETITION FOR REVIEW FROM THE DECISION AND ORDER OF THE NATIONAL LABOR RELATIONS BOARD, NO. 20-CA-139745

## JOINT APPENDIX – VOLUME 1 OF HOBBY LOBBY STORES, INC. AND COMMITTEE TO PRESERVE THE RELIGIOUS RIGHT TO ORGANIZE

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*Attorney for the Committee to Preserve the Religious Right to Organize*

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Excerpts from Certified Administrative Record

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20

HOBBY LOBBY STORES, INC.

and Case 20-CA-139745

THE COMMITTEE TO PRESERVE THE RELIGIOUS
RIGHT TO ORGANIZE

JOINT MOTION TO SUBMIT STIPULATED
RECORD TO THE ADMINISTRATIVE LAW JUDGE

This is a joint motion by: (1) Hobby Lobby Stores, Inc., ("Respondent") and (2) Counsel for the General Counsel, to waive a trial and submit this case to the Administrative Law Judge ("ALJ") on a stipulated record for issuance of a decision, despite The Committee to Preserve the Religious Right to Organize, ("Charging Party")'s objections; pursuant to Section 102.24 and Section 102.35(a)(9) of the National Labor Relations Board's ("Board") Rules and Regulations, Series 8, as amended. The issuance of an ALJ decision based on a stipulated record and Respondent's and Counsel for the General Counsel's briefing will effectuate the purposes of the Act because there is no material fact or issue in dispute and it will avoid unnecessary costs and delay. *See Laborers' Local Union* 383, 260 NLRB 1340, Fn 1 (1982) and *Sunrise Hospital Medical* Center, 254 NLRB 1377, 1378 (1981) (where the Board affirmed the Administrative Law Judge's findings to accept the motion for a stipulated record over Charging Party's objections because the record was complete and sufficient to support findings of fact with respect to all contested allegations of the complaint).

If this motion is granted, the Respondent and Counsel for the General Counsel agree as follows: the record in this case consists of the Joint Motion, Stipulation of Issues Presented,

Joint Motion to Submit a Stipulated Record to the ALJ
Hobby Lobby Stores, Inc.
Case No. 20–CA–139745

Submission of Joint Exhibits and Stipulation of Facts. The stipulation of facts does not prevent any of the parties from requesting that the ALJ take judicial notice of matters of public record or of public court or Board proceedings.

Respectfully submitted,

Yasmin Macariola 6/2/15

Yasmin Macariola Date
Counsel for the General Counsel
National Labor Relations Board
Region 20
901 Market Street, Suite 400 San Francisco,
California 94103

6/2/15

Frank Birchfield Date
Counsel for Respondent
Ogletree, Deakins, Nash, Smosk & Stewart, P.C.
1745 Broadway, 22nd Floor
New York, NY 10019

**UNITED STATES OF AMERICA**
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**
**REGION 20**

**HOBBY LOBBY STORES, INC.**

**and** **Case 20-CA-139745**

**THE COMMITTEE TO PRESERVE THE RELIGIOUS RIGHT TO ORGANIZE**

**AFFIDAVIT OF SERVICE OF: Joint Motion to Submit Stipulated Record to the Administrative Law Judge**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on June 2, 2015, I served the above-entitled document(s) by **electronic mail,** as noted below, upon the following persons, addressed to them at the following addresses:

FRANK BIRCHFIELD, ESQ.
OGLETREE DEAKINS NASH SMOAK & STEWART P.C.
1745 BROADWAY 22ND FL
NEW YORK, NY 10019
birchfield@ogletreedeakins.com

DAVID A. ROSENFELD, ATTORNEY AT LAW
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1001 MARINA VILLAGE PKWY STE 200
ALAMEDA, CA 94501-6430
drosenfeld@unioncounsel.net

June 2, 2015
Date

Susie Louie, Designated Agent of NLRB
Name

Susie Louie
Signature

# JOINT EXHIBIT 1

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20

HOBBY LOBBY STORES, INC.

and Case 20-CA-139745

THE COMMITTEE TO PRESERVE THE RELIGIOUS RIGHT TO ORGANIZE

## STIPULATION OF ISSUES PRESENTED

Without waiving objections to the materiality or relevance or waiving the right to present additional issues, (1) Hobby Lobby Stores, Inc., ("Respondent"); (2) The Committee to Preserve the Religious Right to Organize, ("Charging Party"); and (3) Counsel for the General Counsel, (collectively known as "the parties"), hereby stipulate and agree to the following:

**Issues Presented**

1. Whether the MAA and related policies maintained by Respondent, which requires employees, as a condition of employment, to waive their right to resolution of employment-related disputes by collective or class action is in violation of Section 8(a)(1) of the National Labor Relations Act ("Act").

2. Whether the MAA maintained by Respondent would reasonably be read by employees to prohibit them from filing unfair labor practice charges with the Board in violation of Section 8(a)(1) of the Act.

3. Whether Respondent's enforcement of the MAA through its motions to compel arbitration in *Jeremy Fardig v. Hobby Lobby Stores, Inc.*, 8:14-cv-00561-JVS-AN, U.S.D.C., Central District of California; and *Ortiz v. Hobby Lobby Stores, Inc.*, 2:13-cv-01619-TLN-DAD, U.S.D.C., Eastern District Court of California, is a violation of Section 8(a)(1) of the Act.

Joint Exhibit 1

D

Respectfully submitted,

Yasmin Macariola 6/2/15

Yasmin Macariola Date
Counsel for the General Counsel
National Labor Relations Board
Region 20
901 Market Street, Suite 400 San Francisco,
California 94103

6/1/15

Frank Birchfield Date
Counsel for Respondent
Ogletree, Deakins, Nash, Smosk & Stewart, P.C.
1745 Broadway, 22nd Floor
New York, NY 10019

David Rosenfeld Date
Counsel for the Charging Party
Weinberg, Roger & Rosenfeld
1001 Marina Village Parkway, Suite 200
Alameda, CA 94501-6430

# JOINT EXHIBIT 2

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20

HOBBY LOBBY STORES, INC.

and Case 20-CA-139745

THE COMMITTEE TO PRESERVE THE RELIGIOUS
RIGHT TO ORGANIZE

SUBMISSION OF JOINT EXHIBITS AND STIPULATION OF FACTS

Without waiving objections to the materiality or relevance or waiving the right to produce additional evidence, (1) Hobby Lobby Stores, Inc., ("Respondent"); (2) The Committee to Preserve the Religious Right to Organize, ("Charging Party"); and (3) Counsel for the General Counsel, (collectively known as "the parties"), hereby submit the following joint exhibits and stipulate and agree to the following:

**Joint Exhibits**

Joint Exhibit Document

A. The Charge;

B. The Affidavit of Service of the Charge;

C. The Complaint and Notice of Hearing;

D. The Affidavit of Service of the Complaint and Notice of Hearing;

E. Respondent's Answer to the Complaint;

F. The Amended Complaint and Notice of Hearing;

G. The Affidavit of Service of the Amended Complaint and Notice of Hearing;

H. Respondent's Answer to the Amended Complaint;

Joint Exhibit 2

I. Respondent's entire employee handbook applicable to all employees working in California, dated May 2011;

J. Respondent's entire employee handbook applicable to all employees other than those working in California, dated March 2010;

K. Respondent's employment application applicable to applicants within California, dated October 2010;

L. Respondent's employment application applicable to applicants outside California, dated January 1, 2012;

M. Relevant portions of Respondent's new employee packet which references the MAA, and is applicable to employees in California, dated February 2011;

N. Relevant portions of Respondent's new employee packet which references the MAA, and is applicable to employees in California, dated February 2012;

O. Relevant portions of Respondent's new employee packet which references the MAA, and is applicable to employees in California, dated March 2013;

P. Relevant portions of Respondent's new employee packet which references the MAA, and is applicable to employees in California, dated August 2013;

Q. Relevant portions of Respondent's new employee packet which references the MAA, and is applicable to employees in California, dated January 2014;

R. Relevant portions of Respondent's new employee packet which references the MAA, and is applicable to employees in California, dated July 2014;

S. Relevant portions of Respondent's new employee packet which references the MAA, and is applicable to all employees other than those working in California, dated July 2010;

T. Relevant portions of Respondent's new employee packet which references the MAA, and is applicable to all employees other than those working in California, dated February 2011;

U. Relevant portions of Respondent's new employee packet which references the MAA, and is applicable to all employees other than those working in California, dated February 2012;

V. Relevant portions of Respondent's new employee packet which references the MAA, and is applicable to all employees other than those working in California, dated March 2013;

W. Relevant portions of Respondent's new employee packet which references the MAA, and is applicable to all employees other than those working in California, dated August 2013;

X. Relevant portions of Respondent's new employee packet which references the MAA, and is applicable to all employees other than those working in California, dated January 2014;

Y. Notice of Motion And Motion To Dismiss Complaint under F.R.C.P. 12(b)(6) Or In The Alternative, To Compel Arbitration in *Ortiz v. Hobby*

*Lobby Stores, Inc.*, 2:13-cv-01619-TLN-DAD, U.S.D.C., Eastern District Court of California, dated December 3, 2013; and

Z. Motion To Dismiss Complaint under F.R.C.P. 12(b)(6) Or In The Alternative, To Compel Arbitration in *Jeremy Fardig v. Hobby Lobby Stores, Inc.*, 8:14-cv-00561-JVS-AN, U.S.D.C., Central District of California, dated April 17, 2014.

**Stipulation of Facts**

The parties agree that the following facts are true. The parties do not concede the relevance of each fact recited, and this stipulation is made without prejudice to any objection that any party may have as to the relevance of any facts stated herein and without prejudice to presenting additional evidence.

1. The charge in this proceeding was filed by the Charging Party on October 28, 2014, and a copy was served by regular mail on Respondent, on October 29, 2014.

2. (a) At all material times, Respondent, an Oklahoma corporation with offices, distribution centers, approximately 659 stores in all states but Alaska, Hawaii and Delaware, and several stores throughout the State of California, including one in Sacramento, California, has been engaged in business as a retailer specializing in arts, crafts, hobbies, home décor, holiday, and seasonal products.

(b) During the calendar year ending December 31, 2014, Respondent, in conducting its business operations described above in the stipulation of facts in subparagraph 2(a), derived gross revenues in excess of $500,000, and sold and shipped from its California facilities products valued in excess of $5,000 directly to points outside the State of California.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4. (a) Respondent employs employees in job titles including but not limited to: office clericals, security staff, cashiers, stockers, floral designers, picture framers, media buyers, craft designers, graphic & web designers, production artists, video tutorial hosts, leave assistants, production quality and compliance assistants, construction warehouse workers, team truck drivers, customer service representatives, industrial engineers, inventory control specialists, maintenance technicians, packers/order pullers, photo editors, truck-trailer technicians, truck-trailer technician trainees, social media writers, and sales and use tax accountants.

(b) Respondent's truck drivers transport Respondent's products across state lines.

(c) Respondent communicates with some of its employees electronically through its intranet.

(d) At all material times since at least April 28, 2014, Respondent has maintained the MAA in its employee handbook, attached as Joint Exhibits I and J, which require employees, such as those listed in the stipulation of facts in subparagraph 4(a), to waive resolution of employment-related disputes by class, representative or collective action or other otherwise jointly with any other person.

(e) Since at least April 28, 2014, and at all material times, Respondent has required all of its employees to enter into the MAA in order to obtain and maintain employment with Respondent.

(f) Respondent has distributed the MAA to its employee applicants through employment applications attached as Joint Exhibits K and L.

(g) Respondent has distributed new employee packets to managers for new employees that reference the MAA, attached as Joint Exhibits M-X.

(h) During the period of December 18, 2010 to December 18, 2014, Respondent hired approximately 65,880 employees and re-hired approximately 6,324 employees for a total of approximately 72, 204 recipients of the MAA.

(i) The MAA is a condition of employment.

5. At all material times, since April 28, 2014, Respondent has enforced the MAA by filing motions to compel in the following cases: *Jeremy Fardig v. Hobby Lobby Stores, Inc.*, 8:14-cv-00561-JVS-AN, U.S.D.C., Central District of California; and *Ortiz v. Hobby Lobby Stores, Inc.*, 2:13-cv-01619-TLN-DAD, U.S.D.C., Eastern District Court of California, attached here as Joint Exhibits Y and Z.

6. All documents attached as **Joint Exhibits** are true and correct copies of the documents described. The parties agree to the authenticity of the Joint Exhibits.

Respectfully submitted,

Yasmin Macariola 6/2/15

Yasmin Macariola Date
Counsel for the General Counsel
National Labor Relations Board
Region 20
901 Market Street, Suite 400 San Francisco,
California 94103

Submission of Joint Exhibits and Stipulation of Facts
Hobby Lobby Stores, Inc.
Case No. 20–CA–139745

Frank Birchfield Date
Counsel for Respondent
Ogletree, Deakins, Nash, Smosk & Stewart, P.C.
1745 Broadway, 22nd Floor
New York, NY 10019

5/28/2015
David Rosenfeld Date
Counsel for the Charging Party
Weinberg, Roger & Rosenfeld
1001 Marina Village Parkway, Suite 200
Alameda, CA 94501-6430

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20

HOBBY LOBBY STORES, INC.

and Case 20-CA-139745

THE COMMITTEE TO PRESERVE THE RELIGIOUS
RIGHT TO ORGANIZE

SUBMISSION OF JOINT EXHIBITS AND STIPULATION OF FACTS

Without waiving objections to the materiality or relevance or waiving the right to produce additional evidence, (1) Hobby Lobby Stores, Inc., ("Respondent"); (2) The Committee to Preserve the Religious Right to Organize, ("Charging Party"); and (3) Counsel for the General Counsel, (collectively known as "the parties"), hereby submit the following joint exhibits and stipulate and agree to the following:

**Joint Exhibits**

| Joint Exhibit | Document |
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| A. | The Charge; |
| B. | The Affidavit of Service of the Charge; |
| C. | The Complaint and Notice of Hearing; |
| D. | The Affidavit of Service of the Complaint and Notice of Hearing; |
| E. | Respondent's Answer to the Complaint; |
| F. | The Amended Complaint and Notice of Hearing; |
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Y. Notice of Motion And Motion To Dismiss Complaint under F.R.C.P. 12(b)(6) Or In The Alternative, To Compel Arbitration in *Ortiz v. Hobby*

*Lobby Stores, Inc.*, 2:13-cv-01619-TLN-DAD, U.S.D.C., Eastern District Court of California, dated December 3, 2013; and

Z. Motion To Dismiss Complaint under F.R.C.P. 12(b)(6) Or In The Alternative, To Compel Arbitration in *Jeremy Fardig v. Hobby Lobby Stores, Inc.*, 8:14-cv-00561-JVS-AN, U.S.D.C., Central District of California, dated April 17, 2014.

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The parties agree that the following facts are true. The parties do not concede the relevance of each fact recited, and this stipulation is made without prejudice to any objection that any party may have as to the relevance of any facts stated herein and without prejudice to presenting additional evidence.

1. The charge in this proceeding was filed by the Charging Party on October 28, 2014, and a copy was served by regular mail on Respondent, on October 29, 2014.

2. (a) At all material times, Respondent, an Oklahoma corporation with offices, distribution centers, approximately 659 stores in all states but Alaska, Hawaii and Delaware, and several stores throughout the State of California, including one in Sacramento, California, has been engaged in business as a retailer specializing in arts, crafts, hobbies, home décor, holiday, and seasonal products.

(b) During the calendar year ending December 31, 2014, Respondent, in conducting its business operations described above in the stipulation of facts in subparagraph 2(a), derived gross revenues in excess of $500,000, and sold and shipped from its California facilities products valued in excess of $5,000 directly to points outside the State of California.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4. (a) Respondent employs employees in job titles including but not limited to: office clericals, security staff, cashiers, stockers, floral designers, picture framers, media buyers, craft designers, graphic & web designers, production artists, video tutorial hosts, leave assistants, production quality and compliance assistants, construction warehouse workers, team truck drivers, customer service representatives, industrial engineers, inventory control specialists, maintenance technicians, packers/order pullers, photo editors, truck-trailer technicians, truck-trailer technician trainees, social media writers, and sales and use tax accountants.

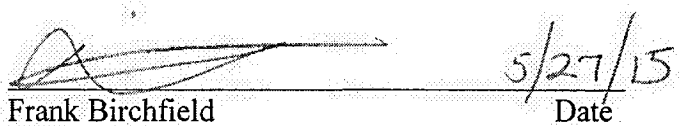
(b) Respondent's truck drivers transport Respondent's products across state lines.

(c) Respondent communicates with some of its employees electronically through its intranet.

(d) At all material times since at least April 28, 2014, Respondent has maintained the MAA in its employee handbook, attached as Joint Exhibits I and J, which require employees, such as those listed in the stipulation of facts in subparagraph 4(a), to waive resolution of employment-related disputes by class, representative or collective action or other otherwise jointly with any other person.

(e) Since at least April 28, 2014, and at all material times, Respondent has required all of its employees to enter into the MAA in order to obtain and maintain employment with Respondent.

(f) Respondent has distributed the MAA to its employee applicants through employment applications attached as Joint Exhibits K and L



5/27/15

Frank Birchfield Date
Counsel for Respondent
Ogletree, Deakins, Nash, Smosk & Stewart, P.C.
1745 Broadway, 22nd Floor
New York, NY 10019

David Rosenfeld Date
Counsel for the Charging Party
Weinberg, Roger & Rosenfeld
1001 Marina Village Parkway, Suite 200
Alameda, CA 94501-6430

# JOINT EXHIBIT 2A

FORM EXEMPT UNDER 44 U.S.C. 3512

INTERNET FORM NLRB-501 (2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

| DO NOT WRITE IN THIS SPACE | |
|---|---|
| Case 20-CA-139745 | Date Filed Oct. 28, 2014 |

**INSTRUCTIONS:**
File an original with NLRB Regional Director for the Region in which the alleged unfair labor practice occurred or is occurring

**1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT**

| a. Name of Employer | b. Tel No. 1-405-745-1100 |
|---|---|
| Hobby Lobby Stores, Inc. | c. Cell No. |
| | f. Fax No |

| d. Address (Street, city, state, and ZIP code) | e. Employer Representative | g. e-Mail |
|---|---|---|
| 7707 S. W 44th Street Oklahoma City, OK 73179 | David Green | h. Number of workers employed 20,000+ oppressed workers |

| i. Type of Establishment (factory, mine, wholesaler, etc.) | j. Identify principal product or service |
|---|---|
| Retail Arts & Crafts Store | Arts & Crafts |

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act

Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Within the last six months the above named employer has maintained policies in a Mutual Arbitration Agreement which violates the rights of employees to organize and to engage in other concerted activity for mutual aid or protection. These policies interfere with their religious right to have a Union which is protected by the federal law including the National Labor Relations Act and the Religious Freedom Restoration Act. This is a nationwide charge against Hobby Lobby wherever it is doing business.

Full name of party filing charge (if labor organization, give full name, including local name and number)

The Committee to Preserve the Religious Right to Organize

| 4a. Address (Street and number, city, state, and ZIP code) | 4b. Tel No. (510) 337-1001 |
|---|---|
| 1001 Marina Village Parkway, Suite 200<br>Alameda, CA 94501 | 4c. Cell No. |
| RECEIVED<br>NLRB, REGION 20<br>2014 OCT 28 PM 1 53 | 4d. Fax No. (510) 337-1023 |
| | 4e. e-Mail |

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
SAN FRANCISCO, CA

| 6. DECLARATION | Tel No. (510) 337-1001 |
|---|---|
| I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. | Office, if any, Cell No. |
| By _____ (signature of representative or person making charge) David A. Rosenfeld, Attorney (Print/type name and title or office, if any) | Fax No. (510) 337-1023 |
| Address: 1001 Marina Village Parkway, Suite 200<br>Alameda, CA 94501 October 28, 2014 (date) | e-Mail |

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

ORIGINAL

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. I further explain these uses upon request. Disclosure of this information to the NLRB is voluntary, however, failure to supply the information will cause the NLRB to decli

Joint Exhibit 2 A

# JOINT EXHIBIT 2C

**UNITED STATES OF AMERICA**

**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**REGION 20**

**HOBBY LOBBY STORES, INC.**

**and** **Case 20-CA-139745**

**THE COMMITTEE TO PRESERVE THE RELIGIOUS RIGHT TO ORGANIZE**

## COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by The Committee to Preserve the Religious Right to Organize (the Charging Party). It is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq. (the Act), and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board), and alleges that Hobby Lobby Stores, Inc. (Respondent) has violated the Act as described:

1. The charge in this proceeding was filed by the Charging Party on October 28, 2014, and a copy was served by regular mail on Respondent on October 29, 2014.

2. (a) At all material times, Respondent, an Oklahoma corporation with places of business nationwide and throughout the State of California, including one in Sacramento, California, has been engaged in business as a retailer specializing in arts, crafts, hobbies, home decor, holiday, and seasonal products.

(b) During the calendar year ending December 31, 2014, Respondent, in conducting its business operations described above in subparagraph 2(a), derived gross revenues in excess of $500,000.

Joint Exhibit 2 C

(c) During the time period described above in subparagraph 2(b), Respondent sold and shipped from its California facilities products valued in excess of $5,000 directly to points outside the State of California.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4. (a) At all material times since at least April 28, 2014, Respondent has maintained the Mutual Arbitration Agreement (MAA) (pertinent portions of which are attached as Attachment A), which require employees to waive their right to resolution of employment-related disputes by collective or class action.

(b) At all material times since at least April 28, 2014, Respondent has maintained the MAA, portions of which would reasonably be read by employees to prohibit them from filing unfair labor practice charges with the Board (see Attachment A).

(c) Since at least April 28, 2014, and at all material times, Respondent has required employees to enter into the MAA in order to obtain and maintain employment with Respondent.

(d) The MAA referred to in subparagraphs 4(a), (b), and (c) is a condition of employment.

(e) At all material times since April 28, 2014, Respondent has enforced the MAA by filing motions to compel arbitration in the following cases:

(i) *Jeremy Fardig v. Hobby Lobby Stores, Inc.*, 8:14-cv-00561-JVS-AN, U.S.D.C., Central District of California; and

(ii) *Ortiz v. Hobby Lobby Stores, Inc.*, 2:13-cv-01619-TLN-DAD, U.S.D.C., Eastern District of California.

5. By the conduct described above in paragraph 4, Respondent has been interfering with, restraining, and coercing employees in the exercise of their rights as guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

6. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**WHEREFORE,** as part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an order requiring that Respondent cease and desist from maintaining and enforcing those portions of the MAA prohibiting collective and class actions.

**FURTHER,** as part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an affirmative order requiring that Respondent rescind the provisions of the MAA that prohibit employees from filing or participating in an employment-related class or collective action in any judicial or arbitral forum.

**FURTHER,** as part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an affirmative order requiring Respondent to rescind the provisions of the MAA that may reasonably be read to bar or restrict employees' rights to file Board charges, and to make clear in any rule thereafter adopted that Board charges may be processed and potentially adjudicated and remedied in an administrative Board proceeding instead of arbitration.

**FURTHER**, as part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an affirmative order requiring Respondent to notify all current and former employees subject to the MAA, in the same written manner in which Respondent initially provided the MAA to them, that Respondent has rescinded the MAA prohibition of the right to file or participate in an employment-related class or collective action in any judicial or arbitral forum, and have rescinded the MAA provisions which may reasonably be read to bar or restrict employees' rights to file Board charges.

**FURTHER**, as part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an affirmative order requiring Respondent to post any remedial "Notice to Employees" at all locations where the MAA has been in effect.

**FURTHER**, as part of the remedy for Respondent's unfair labor practices alleged above, the General seeks an affirmative order requiring Respondent, on request, to joint in a Motion to the United States District Court to vacate any order compelling individual arbitration pursuant to the unlawful provision of the MAA.

The General Counsel further seeks all other relief that may be just and proper to remedy the unfair labor practices alleged.

## ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before February 11, 2015, or postmarked on or before February 10, 2015**. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **E-File Documents,** enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

## NOTICE OF HEARING

PLEASE TAKE NOTICE THAT **at 9:00 a.m. on April 29, 2015,** and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board at the E.V.S. Robbins Courtroom (Room 306), 901 Market Street, San Francisco, California. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED AT San Francisco, California, this 28th day of January 2015.

Joseph Frankl, Regional Director
National Labor Relations Board, Region 20
901 Market Street, Suite 400
San Francisco, California 94103-1738

Attachments

# MUTUAL ARBITRATION AGREEMENT

This Mutual Arbitration Agreement ("Agreement"), by and between the undersigned employee ("Employee") and the Company†, is made in consideration for the continued at-will employment of Employee, the benefits and compensation provided by Company to Employee, and Employee's and Company's mutual agreement to arbitrate as provided in this Agreement. Employee and Company hereby agree that any dispute, demand, claim, controversy, cause of action, or suit (collectively referred to as "Dispute") that Employee may have, at any time following the acceptance and execution of this Agreement, with or against Company, its affiliates, subsidiaries, officers, directors, agents, attorneys, representatives, and/or other employees, that in any way arises out of, involves, or relates to Employee's employment with Company or the separation of Employee's employment with Company (including without limitation, all Disputes involving wrongful termination, wages, compensation, work hours, invasion of privacy, false imprisonment, assault, battery, malicious prosecution, defamation, negligence, personal injury, pain and suffering, emotional distress, loss of consortium, breach of fiduciary duty, sexual harassment, harassment and/or discrimination based on any class protected by federal, state or municipal law, and all Disputes involving interference and/or retaliation relating to workers' compensation, family or medical leave, health and safety, harassment, discrimination, and/or the opposition of harassment or discrimination, and/or any other employment-related Dispute in tort or contract), shall be submitted to and settled by final and binding arbitration in the county and state in which Employee is or was employed. Such arbitration shall be conducted pursuant to the American Arbitration Association's National Rules for the Resolution of Employment Disputes or the Institute for Christian Conciliation's Rules of Procedure for Christian Conciliation, then in effect, before an arbitrator licensed to practice law in the state in which Employee is or was employed and who is experienced with employment law. Disputes are to be brought within the limitations period established by the applicable statute, if the Dispute involves statutory rights and the applicable statute provides for a limitations period. If there is no statutory limitation period, such Disputes must be brought within one (1) year of the day on which the aggrieved party knew, or through reasonable diligence should have known, of the facts giving rise to the Dispute. The parties agree that all Disputes contemplated in this Agreement shall be arbitrated with Employee and Company as the only parties to the arbitration, and that no Dispute contemplated in this Agreement shall be arbitrated, or litigated in a court of law, as part of a class action, collective action, or otherwise jointly with any third party. Prior to submitting a Dispute to arbitration, the aggrieved party shall first attempt to resolve the Dispute by notifying the other party in writing of the Dispute. If the other party does not respond to and resolve the Dispute within 10 days of receipt of the written notification, the aggrieved party then may proceed to arbitration. The parties agree that the decision of the arbitrator shall be final and binding. Judgment on any award rendered by an arbitrator may be entered and enforced in any court having jurisdiction thereof.

This Agreement between Employee and Company to arbitrate all employment-related Disputes includes, but is not limited to, all Disputes under or involving Title VII of the Civil Rights Act of 1964, the Civil Rights Acts of 1866 and 1991, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, the Equal Pay Act, the Fair Credit Act, the Employee Retirement Income Security Act, and all other federal, state, and municipal statutes, regulations, codes, ordinances, common laws, or public policies that regulate, govern, cover, or relate to equal employment, wrongful termination, wages, compensation, work hours, invasion of privacy, false imprisonment, assault, battery, malicious prosecution, defamation, negligence, personal injury, pain and suffering, emotional distress, loss of consortium, breach of fiduciary duty, sexual harassment, harassment and/or discrimination based on any class protected by federal, state or municipal law, or interference and/or retaliation involving workers' compensation, family or medical leave, health and safety, harassment, discrimination, or the opposition of harassment or discrimination, and any other employment-related Dispute in tort or contract. This Agreement shall not apply to claims for benefits under unemployment compensation laws or workers' compensation laws.

By agreeing to arbitrate all Disputes, Employee and Company understand that they are not giving up any substantive rights under federal, state, or municipal law (including the right to file claims with federal, state, or municipal government agencies). Rather, Employee and Company are mutually agreeing to submit all Disputes contemplated in this Agreement to arbitration, rather than to a court. Company shall bear the administrative costs and fees assessed by the arbitration provider selected by Employee: either the American Arbitration Association

† "Company" shall mean the company for which the employee is or was employed, specifically Hobby Lobby Stores, Inc., Mardel, Inc , Crafts, Etc!, Ethnographic Media, Inc., Toy Gun Films, Inc., or any corresponding affiliate, successor, or assign

or the Institute for Christian Conciliation. Company shall be solely responsible for paying the arbitrator's fee. Except for those Disputes involving statutory rights under which the applicable statute may provide for an award of costs and attorney's fees, each party to the arbitration shall be solely responsible for its own costs and attorney's fees, if any, relating to any Dispute and/or arbitration. Should any party institute any action in a court of law or equity against the other party with respect to any Dispute required to be arbitrated under this Agreement, the responding party shall be entitled to recover from the initiating party all costs, expenses, and attorney fees incurred to enforce this Agreement and compel arbitration, and all other damages resulting from or incurred as a result of such court action.

Every individual who works for Company must have signed and returned to his/her supervisor this Agreement to be eligible for employment and continued employment with Company. Further, Employee's employment or continued employment will evidence Employee's acceptance of this Agreement. Employee acknowledges and agrees that Company is engaged in transactions involving interstate commerce, that this Agreement evidences a transaction involving commerce, and that this Agreement is subject to the Federal Arbitration Act. If any specific provision of this Agreement is invalid or unenforceable, the remainder of this Agreement shall remain binding and enforceable. This Agreement constitutes the entire mutual agreement to arbitrate between Employee and Company and supersedes any and all prior or contemporaneous oral or written agreements or understandings regarding the arbitration of employment-related Disputes. This Agreement is not, and shall not be construed to create, a contract of employment, express or implied, and shall not alter Employee's at-will employment status.

Employee and Company acknowledge that they have read this Mutual Arbitration Agreement, are giving up any right they might have at any point to sue each other, are waiving any right to a jury trial, and are knowingly and voluntarily consenting to all terms and conditions set forth in this Agreement.

By Employee:

_____
Employee's Signature

_____
Employee's Name (Print)

_____
SSN or Employee ID Number

_____
Date

By Company:

Peter M. Dobelbower
Vice President

Attachment A (2 of 2)

# JOINT EXHIBIT 2E

**UNITED STATES OF AMERICA**
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**
**REGION 20**

**HOBBY LOBBY STORES, INC.**

**and** **Case 20-CA-139745**

**THE COMMITTEE TO PRESERVE THE RELIGIOUS RIGHT TO ORGANIZE**

## HOBBY LOBBY'S ANSWER TO COMPLAINT AND NOTICE OF HEARING

Pursuant to Sections 102.20 and 102.21 of the National Labor Relations Board's Rules and Regulations, Respondent Hobby Lobby Stores, Inc. ("Respondent" or "Hobby Lobby"), by and through its undersigned counsel, hereby files this Answer to the Complaint and Notice of Hearing issued by the Regional Director of Region 20:

1. Respondent admits only that it received a copy of the charge dated October 28, 2014. Respondent is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 1 of the Complaint and therefore denies the same.

2. (a) Respondent admits the allegations contained in paragraph 2(a) of the Complaint.

(b) Respondent admits the allegations contained in paragraph 2(b) of the Complaint.

(c) Respondent admits the allegations contained in paragraph 2(c) of the Complaint.

Joint Exhibit 2-E

3. Respondent admits the allegations contained in paragraph 3 of the Complaint.

4. (a) Respondent admits the allegations contained in paragraph 4(a) of the Complaint.

(b) Respondent denies the allegations contained in paragraph 4(b) of the Complaint.

(c) Respondent admits the allegations contained in paragraph 4(c) of the Complaint.

(d) Respondent admits the allegations contained in paragraph 4(d) of the Complaint to the extent they refer to subparagraphs 4(a) and 4(c) of the Complaint. Respondent denies the allegations contained in paragraph 4(d) of the Complaint to the extent they refer to subparagraph 4(b) of the Complaint.

(e) Respondent denies the allegations contained in paragraph 4(e) of the Complaint.

(i) Respondent avers that Respondent filed a motion to compel arbitration in *Jeremy Fardig v. Hobby Lobby Stores, Inc.*, SACV 14-561 JVS(ANx), U.S.D.C., Central District of California, on April 17, 2014.

(ii) Respondent avers that Respondent filed a motion to compel arbitration in *Ortiz v. Hobby Lobby Stores, Inc.*, 2:13-cv-01619, U.S.D.C., Eastern District of California, on February 26, 2014.

5. Respondent denies the allegations contained in paragraph 5 of the Complaint.

6. Paragraph 6 of the Complaint states a legal conclusion to which no answer is required. To the extent an answer is required, Respondent denies the allegations contained in paragraph 6 of the Complaint.

7. Respondent denies the General Counsel is entitled to the relief requested in the Complaint.

**AFFIRMATIVE DEFENSES**

1. Hobby Lobby will rely upon any and all proper defenses, affirmative or otherwise, lawfully available that may be disclosed by evidence and reserves the right to amend this Answer to state such other affirmative and additional defenses or otherwise supplement this Answer upon discovery of facts or evidence rendering such action appropriate.

2. The Complaint is barred, in whole or in part, because it fails to state a claim upon which relief can be granted.

3. Hobby Lobby denies that it has engaged in or is engaging in any unfair labor practices as alleged in the Complaint.

4. To the extent any allegations contained in the Complaint were not made and expressly included in an unfair labor practice charge filed within six (6) months of the alleged occurrence, the allegations are time-barred by the applicable statute of limitations contained in Section 10(b) of the National Labor Relations Act ("NLRA"), 29 U.S.C. § 160(b).

5. Hobby Lobby's actions constitute legally permissible activity within the meaning of the NLRA and other federal law, including the Federal Arbitration Act ("FAA").

6. Some or all of the claims brought against Hobby Lobby fail because Respondent's Mutual Arbitration Agreement ("MAA") does not prohibit employees from filing unfair labor

practice charges with the Board and no reasonable employee could misinterpret the MAA as prohibiting the filing of an unfair labor practice charge with the Board

7. Some or all of the claims brought against Hobby Lobby fail because class and collective action procedures are procedural mechanisms that are fully waivable, not substantive rights under the NLRA or any other applicable law.

8. Some or all of the claims brought against Hobby Lobby fail because Hobby Lobby's maintenance and enforcement of a MAA as alleged in the Complaint is lawful under applicable laws including the NLRA and the FAA.

9. Some or all of the claims brought against Hobby Lobby fail because a prohibition against class or collective action waivers in employment arbitration agreements violates the FAA.

10. Some or all of the claims brought against Hobby Lobby fail because the NLRA does not contain a congressional command to override the FAA.

11. Some or all of the claims brought against Hobby Lobby fail because the Board's interpretation of the NLRA as prohibiting class or collective action waivers in employment arbitration agreements is not rational and consistent with the NLRA and because the Board is not authorized to construe federal statutes other than the NLRA.

12. Respondent denies each and every allegation of the Complaint that is not specifically admitted, denied, modified, or otherwise controverted herein.

WHEREFORE, Respondent, having fully answered the allegations in the Complaint, respectfully requests that the Complaint be dismissed in its entirety.

Respectfully submitted this 11th day of February, 2015.

Maria Anastas
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
One Market Plaza, Steuart Tower, Suite 1300
San Francisco, CA 94105
Telephone: (415) 442-4810
Facsimile: (415) 442-4870
maria.anastas@odnss.com

*Counsel for Respondent Hobby Lobby Stores, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this date I filed the foregoing **HOBBY LOBBY'S ANSWER TO COMPLAINT AND NOTICE OF HEARING** via the NLRB's e-filing system, and served a true and correct copy on the following via electronic mail:

David A. Rosenfeld
Weinberg, Roger & Rosenfeld
1001 Marina Village Parkway, Suite 200
Alameda, CA 94501-6430
drosenfeld@unioncounsel.net

*Counsel for The Committee to Preserve the Religious Right to Organize*

This 11th day of February, 2015.

Elizabeth Wyatt

# JOINT EXHIBIT 2F

**UNITED STATES OF AMERICA**

**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**REGION 20**

**HOBBY LOBBY STORES, INC.**

**and** **Case 20-CA-139745**

**THE COMMITTEE TO PRESERVE THE RELIGIOUS RIGHT TO ORGANIZE**

## AMENDED COMPLAINT AND ORDER RESCHEDULING HEARING

This Amended Complaint and Notice of Hearing is based on a charge filed by The Committee to Preserve the Religious Right to Organize (the Charging Party). It is issued pursuant to Section 10(b) of the National Labor Relations Act, 29 U.S.C. § 151 et seq. (the Act), and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board), and alleges that Hobby Lobby Stores, Inc. (Respondent) has violated the Act as described:

1. The charge in this proceeding was filed by the Charging Party on October 28, 2014, and a copy was served by regular mail on Respondent on October 29, 2014.

2. (a) At all material times, Respondent, an Oklahoma corporation with places of business nationwide and throughout the State of California, including one in Sacramento, California, has been engaged in business as a retailer specializing in arts, crafts, hobbies, home decor, holiday, and seasonal products.

(b) During the calendar year ending December 31, 2014, Respondent, in conducting its business operations described above in subparagraph 2(a), derived gross revenues in excess of $500,000.

Joint Exhibit 2 F

(c) During the time period described above in subparagraph 2(b), Respondent sold and shipped from its California facilities products valued in excess of $5,000 directly to points outside the State of California.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

4. (a) At all material times since at least April 28, 2014, Respondent has maintained the Mutual Arbitration Agreement (MAA) (pertinent portions of which are attached as Attachment A), which require employees to waive their right to resolution of employment-related disputes by collective or class action.

(b) At all material times since at least April 28, 2014, Respondent has maintained the MAA, portions of which would reasonably be read by employees to prohibit them from filing unfair labor practice charges with the Board (see Attachment A).

(c) Since at least April 28, 2014, and at all material times, Respondent has required employees to enter into the MAA in order to obtain and maintain employment with Respondent.

(d) The MAA referred to in subparagraphs 4(a), (b), and (c) is a condition of employment.

(e) At all material times since April 28, 2014, Respondent has enforced the MAA by filing motions to compel arbitration in the following cases, and in cases yet unknown to the General Counsel:

(i) *Jeremy Fardig v. Hobby Lobby Stores, Inc.*, 8:14-cv-00561-JVS-AN, U.S.D.C., Central District of California; and

(ii) *Ortiz v. Hobby Lobby Stores, Inc.*, 2:13-cv-01619-TLN-DAD, U.S.D.C., Eastern District of California.

5. By the conduct described above in paragraph 4, Respondent has been interfering with, restraining, and coercing employees in the exercise of their rights as guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

6. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

**WHEREFORE,** as part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an order requiring that Respondent cease and desist from maintaining and enforcing those portions of the MAA prohibiting collective and class actions.

**FURTHER,** as part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an affirmative order requiring that Respondent rescind the provisions of the MAA that prohibit employees from filing or participating in an employment-related class or collective action in any judicial or arbitral forum.

**FURTHER,** as part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an affirmative order requiring Respondent to rescind the provisions of the MAA that may reasonably be read to bar or restrict employees' rights to file Board charges, and to make clear in any rule thereafter adopted that Board charges may be processed and

potentially adjudicated and remedied in an administrative Board proceeding instead of arbitration.

**FURTHER**, as part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an affirmative order requiring Respondent to notify all current and former employees subject to the MAA, electronically through its intranet and in the same written manner in which Respondent initially provided the MAA to them, that Respondent has rescinded the MAA prohibition of the right to file or participate in an employment-related class or collective action in any judicial or arbitral forum, and has rescinded the MAA provisions which may reasonably be read to bar or restrict employees' rights to file Board charges.

**FURTHER**, as part of the remedy for Respondent's unfair labor practices alleged above, the General Counsel seeks an affirmative order requiring Respondent to post any remedial "Notice to Employees" at all locations where the MAA has been in effect.

**FURTHER**, as part of the remedy for Respondent's unfair labor practices alleged above, the General seeks an affirmative order requiring Respondent, on request, to join in a motion to any court to vacate any order compelling individual arbitration pursuant to the unlawful provision of the MAA.

The General Counsel further seeks all other relief that may be just and proper to remedy the unfair labor practices alleged.

## ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the Amended Complaint. The answer must be

**received by this office on or before April 23, 2015, or postmarked on or before April 22, 2015**. Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **E-File Documents,** enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.

Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find,

pursuant to a Motion for Default Judgment, that the allegations in the Amended Complaint are true.

## ORDER RESCHEDULING HEARING

Pursuant to Section 102.16(a)(1) of the Board's Rules and Regulations, the hearing that was scheduled for 9:00 a.m. on April 29, 2015, is HEREBY rescheduled to **9:00 a.m. on June 4, 2015,** and on consecutive days thereafter until concluded, at the E.V.S. Robbins Courtroom (Room 306), 901 Market Street, San Francisco, California. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this Amended Complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED AT San Francisco, California, this 9th day of April 2015.

Jill H. Coffman, Acting Regional Director
National Labor Relations Board, Region 20
901 Market Street, Suite 400
San Francisco, California 94103-1738

Attachments

# JOINT EXHIBIT 2H

**UNITED STATES OF AMERICA**
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**
**REGION 20**

**HOBBY LOBBY STORES, INC.**

**and** **Case 20-CA-139745**

**THE COMMITTEE TO PRESERVE THE RELIGIOUS RIGHT TO ORGANIZE**

## HOBBY LOBBY'S ANSWER TO AMENDED COMPLAINT AND NOTICE OF HEARING

Pursuant to Sections 102.20 and 102.21 of the National Labor Relations Board's Rules and Regulations, Respondent Hobby Lobby Stores, Inc. ("Respondent" or "Hobby Lobby"), by and through its undersigned counsel, hereby files this Answer to the Amended Complaint and Notice of Hearing issued by the Regional Director of Region 20:

1. Respondent admits only that it received a copy of the charge dated October 28, 2014. Respondent is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 1 of the Amended Complaint and therefore denies the same.

2. (a) Respondent admits the allegations contained in paragraph 2(a) of the Amended Complaint.

(b) Respondent admits the allegations contained in paragraph 2(b) of the Amended Complaint.

(c) Respondent admits the allegations contained in paragraph 2(c) of the Amended Complaint.

Joint Exhibit 2H

3. Respondent admits the allegations contained in paragraph 3 of the Amended Complaint.

4. (a) Respondent admits the allegations contained in paragraph 4(a) of the Amended Complaint.

(b) Respondent denies the allegations contained in paragraph 4(b) of the Amended Complaint.

(c) Respondent admits the allegations contained in paragraph 4(c) of the Amended Complaint.

(d) Respondent admits the allegations contained in paragraph 4(d) of the Amended Complaint to the extent they refer to subparagraphs 4(a) and 4(c) of the Amended Complaint. Respondent denies the allegations contained in paragraph 4(d) of the Amended Complaint to the extent they refer to subparagraph 4(b) of the Amended Complaint.

(e) Respondent denies the allegations contained in paragraph 4(e) of the Amended Complaint.

(i) Respondent avers that Respondent filed a motion to compel arbitration in *Jeremy Fardig v. Hobby Lobby Stores, Inc.*, SACV 14-561 JVS(ANx), U.S.D.C., Central District of California, on April 17, 2014.

(ii) Respondent avers that Respondent filed a motion to compel arbitration in *Ortiz v. Hobby Lobby Stores, Inc.*, 2:13-cv-01619, U.S.D.C., Eastern District of California, on December 3, 2013.

5. Respondent denies the allegations contained in paragraph 5 of the Amended Complaint.

6. Paragraph 6 of the Amended Complaint states a legal conclusion to which no answer is required. To the extent an answer is required, Respondent denies the allegations contained in paragraph 6 of the Amended Complaint.

7. Respondent denies the General Counsel is entitled to the relief requested in the Amended Complaint.

**AFFIRMATIVE DEFENSES**

1. Hobby Lobby will rely upon any and all proper defenses, affirmative or otherwise, lawfully available that may be disclosed by evidence and reserves the right to amend this Answer to state such other affirmative and additional defenses or otherwise supplement this Answer upon discovery of facts or evidence rendering such action appropriate.

2. The Amended Complaint is barred, in whole or in part, because it fails to state a claim upon which relief can be granted.

3. Hobby Lobby denies that it has engaged in or is engaging in any unfair labor practices as alleged in the Amended Complaint.

4. To the extent any allegations contained in the Amended Complaint were not made and expressly included in an unfair labor practice charge filed within six (6) months of the alleged occurrence, the allegations are time-barred by the applicable statute of limitations contained in Section 10(b) of the National Labor Relations Act ("NLRA"), 29 U.S.C. § 160(b).

5. Hobby Lobby's actions constitute legally permissible activity within the meaning of the NLRA and other federal law, including the Federal Arbitration Act ("FAA").

6. Some or all of the claims brought against Hobby Lobby fail because Respondent's Mutual Arbitration Agreement ("MAA") does not prohibit employees from filing unfair labor

practice charges with the Board and no reasonable employee could misinterpret the MAA as prohibiting the filing of an unfair labor practice charge with the Board

7. Some or all of the claims brought against Hobby Lobby fail because class action, collective action, and other joinder procedures are procedural mechanisms that are fully waivable, not substantive rights under the NLRA or any other applicable law.

8. Some or all of the claims brought against Hobby Lobby fail because Hobby Lobby's maintenance and enforcement of a MAA as alleged in the Amended Complaint is lawful under applicable laws including the NLRA and the FAA.

9. Some or all of the claims brought against Hobby Lobby fail because a prohibition against the waiver of class action, collective action, and other joinder procedures in employment arbitration agreements violates the FAA.

10. Some or all of the claims brought against Hobby Lobby fail because the NLRA does not contain a congressional command to override the FAA.

11. Some or all of the claims brought against Hobby Lobby fail because the Board's interpretation of the NLRA as prohibiting the waiver of class action, collective action, or other joinder procedures in employment arbitration agreements is not rational and consistent with the NLRA and because the Board is not authorized to construe federal statutes other than the NLRA.

12. Some or all of the claims brought against Hobby Lobby fail because the Board's treatment of class action, collective action, and other joinder procedures as substantive rights is contrary to U.S. Supreme Court precedent and prohibited by the Rules Enabling Act.

13. Respondent denies each and every allegation of the Amended Complaint that is not specifically admitted, denied, modified, or otherwise controverted herein.

WHEREFORE, Respondent, having fully answered the allegations in the Amended Complaint, respectfully requests that the Amended Complaint be dismissed in its entirety.

Respectfully submitted this 23rd day of April, 2015.

Maria Anastas
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
One Market Plaza, Steuart Tower, Suite 1300
San Francisco, CA 94105
Telephone: (415) 442-4810
Facsimile: (415) 442-4870
maria.anastas@odnss.com

*Counsel for Respondent Hobby Lobby Stores, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this date I filed the foregoing **HOBBY LOBBY'S ANSWER TO AMENDED COMPLAINT AND NOTICE OF HEARING** via the NLRB's e-filing system, and served a true and correct copy on the following via electronic mail:

David A. Rosenfeld
Weinberg, Roger & Rosenfeld
1001 Marina Village Parkway, Suite 200
Alameda, CA 94501-6430
drosenfeld@unioncounsel.net

*Counsel for The Committee to Preserve the Religious Right to Organize*

This 23rd day of April, 2015.

Elizabeth Wyatt

Elizabeth Wyatt

20980141.1

# JOINT EXHIBIT 2I

# TABLE OF CONTENTS



Joint Exhibit 2 I

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# 1. INTRODUCTION

***Welcome!*** You have been selected for employment with HOBBY LOBBY STORES, INC. or one of its affiliate companies, MARDEL, INC., ETHNOGRAPHIC MEDIA, INC., or TOY GUN FILMS, INC. Throughout this California Employee Handbook ("Employee Handbook"), reference to the **"Company"** shall **only** mean the company with which you are employed; that is, the company that appears on your paycheck. If you work for Basket Market, Hemispheres, or Crafts, Etc!, all items in this Employee Handbook that relate to Hobby Lobby Stores, or refer to Hobby Lobby, shall apply to you.

This Employee Handbook is for employees in California. This Employee Handbook is provided to answer some of the questions that you may have concerning the Company and its policies, procedures, and rules. **Please read this Employee Handbook thoroughly**. With the exception of the Submission of Disputes to Binding Arbitration section and Mutual Arbitration Agreement, the policies, procedures, and rules set forth in this Employee Handbook are subject to change at the sole discretion of the Company. If a material change to any policy, procedure, or rule set forth in this Employee Handbook is necessary, best efforts will be made to post the material change on the Company's Employee Information Boards. If you would like to have a copy of any material change posted on the Employee Information Board, simply ask your supervisor. If you have questions regarding any of the Company's policies, procedures, practices, or rules, please consult your supervisor.

**This Employee Handbook is not a contract, express or implied, guaranteeing employment for any specific duration. Your employment with the Company is at-will which means that although we hope that your employment relationship with us will be long-term, either you or the Company may terminate this relationship at any time, for any reason, with or without cause or notice. Please understand that no supervisor, manager, or representative of the Company, other than a Corporate Officer, has the authority to enter into any agreement, written or otherwise, with you for employment for any specified period or to make any promises or commitments contrary to the foregoing. Further, any employment agreement entered into by a Corporate Officer shall not be enforceable unless it is in writing.**

We wish you success in your position and hope that your employment with the Company will be a rewarding experience.

## WELCOME TO HOBBY LOBBY

On August 3, 1972, Hobby Lobby began its operation with 300 square feet of retail space located in Oklahoma City as a result of the retail outgrowth of Greco Products, a miniature picture frame company co-founded by David Green in 1970. In January of 1973, the original operation was moved to a house near Northwest 23rd Street and Western Avenue in Oklahoma City, and the amount of retail space was increased to approximately 1,000 square feet. Since its modest beginning, Hobby Lobby has become one of the largest arts, crafts, hobby, and home accent retailers in the country, operating several hundred retail stores throughout the United States. In addition to Hobby Lobby, the Company's affiliates operate manufacturing, distribution, and other retail and service companies.

## STATEMENT OF PURPOSE FOR HOBBY LOBBY

In order to effectively serve our owners, employees and customers, the Company is committed to:

- Honoring the Lord in all we do by operating the Company in a manner consistent with Biblical principals;
- Serving our employees and their families by establishing a work environment and Company policies which build character, strengthen individuals, and nurture families; and
- Providing a return on the owners' investment, sharing the Lord's blessings with our employees, and investing in our community.

We believe that it is by God's grace and provision that the Company has endured. He has been faithful in the past, and we trust Him for our future.

While our Statement of Purpose reflects the beliefs of the ownership of the Company, Hobby Lobby has a strict policy against discrimination on the basis of any person's religious affiliation or beliefs or lack thereof.

[redacted]

We proudly welcome you to the Hobby Lobby family of companies. We are confident that through your efforts and dedication, we will continue to grow and prosper.

# 2. EMPLOYMENT POLICIES

## AT-WILL EMPLOYMENT RELATIONSHIP

The employment relationship between the Company and each of its employees is at-will. All Company employees are employed on an at-will basis, and nothing to the contrary stated anywhere in this Employee Handbook or by any Company representative changes any employee's at-will status. All employees are free to resign at any time, for any reason, with or without notice. Similarly, the Company is free to terminate the employment relationship at any time, for any reason, or for no reason at all. No supervisor, manager, or representative of the Company, other than a Corporate Officer, has the authority to enter into any agreement, written or otherwise, with you for employment for any specified period or to make any promises or commitments contrary to the foregoing. Further, any employment agreement entered into by a Corporate Officer shall not be enforceable unless it is in writing.

## EQUAL EMPLOYMENT OPPORTUNITY POLICY

The Company provides equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, gender, pregnancy, national origin, age, disability, genetic information, Veteran's status, or any other status or condition protected by federal, state or municipal law. The Company complies with applicable federal, state and municipal laws governing nondiscrimination in employment in every location in which the Company operates. This Policy applies to all terms and conditions of employment, including but not limited to, hiring, placement, promotion, dismissal, layoff, recall, transfer, leaves of absence, compensation, and training.

## INDIVIDUALS WITH DISABILITIES AND REASONABLE ACCOMMODATIONS POLICY

The Company complies with the Americans With Disabilities Act ("ADA"), as amended, and applicable state and municipal laws providing for nondiscrimination in employment against qualified individuals with Disabilities (as defined below). The Company provides reasonable accommodations for otherwise qualified individuals with Disabilities in accordance with these laws. "**Disability**" means a physical or mental impairment that substantially[1] limits one or more major life activities. It is the Company's Policy to:

1. Ensure that qualified individuals with Disabilities are treated in a nondiscriminatory manner in the pre-employment process and that employees with Disabilities are treated in a nondiscriminatory manner in all terms and conditions of employment.

2. Administer medical examinations to: (a) applicants only after conditional offers of employment have been extended, and (b) employees only when justified by business or regulatory necessity.

3. Keep all medical information confidential in accordance with the requirements of the ADA and retain such information in separate confidential medical files.

4. Provide reasonable accommodations to applicants and employees with Disabilities, except where: (a) an applicant or employee with a Disability is not otherwise qualified to perform a particular

[1] California Fair Employment Housing Act (FEHA) does not require a disability to be "substantially" limiting to qualify as a covered disability.

job, (b) a reasonable accommodation would not enable the individual to perform the essential functions of the job, or no reasonable accommodation exists, (c) an accommodation would cause undue hardship to the Company, or (d) an applicant or employee would pose a direct threat of substantial harm to the health or safety of himself/herself or others.

5. Notify individuals with Disabilities that the Company provides reasonable accommodations to qualified individuals with Disabilities by including this Policy in the Company's Employee Handbook and by posting Equal Employment Opportunity information conspicuously on the Company's Employee Information Boards.

## Requesting a Reasonable Accommodation

It is the employee's responsibility to inform the Company's Human Resources Department of the necessity for a reasonable accommodation for any Disability. Effective communication between employees and the Company is key; therefore, all requests for reasonable accommodations should be submitted in writing to the Company's Human Resources Department. If an employee has questions about this policy or his/her need for a reasonable accommodation, the employee should contact the Human Resources Department at (877) 303-4547.

The Company will engage the employee in an "**Interactive Process**"[1] requiring current medical documentation from a healthcare provider verifying the employee's Disability and need for the requested reasonable accommodation. The Interactive Process entails communication between the employee's direct supervisor, the Human Resources Department, the employee, and the healthcare provider to gather and evaluate all of the relevant information regarding the impairment and determine what, if any, reasonable accommodation may be made for the employee in order to assist him/her in performing the essential functions of his/her job.

If an employee is unable to perform all of the essential functions of his/her job, the employee will be placed on a leave of absence (Family Medical/Military Leave and/or CFRA, if eligible) during the Interactive Process.

If an employee fails to cooperate with or participate in the Company's Interactive Process in a timely manner, the employee's supervisor will make any future employment decisions without regard to the employee's request for reasonable accommodation or reported impairment. If an employee on a leave of absence refuses to comply with or participate in the Company's Interactive Process, the employee may be considered to have voluntarily resigned from his/her employment.

After engaging in the Interactive Process, the Company will inform the employee whether a reasonable accommodation exists. If there is no reasonable accommodation available that enables the employee to perform the essential functions of his/her job, the Company may terminate the employee.

Employees who are granted reasonable accommodations must understand that the business needs of the Company may change at any time. Therefore, the Company reserves the right to reevaluate or modify a reasonable accommodation granted to an employee to accord with changing business needs and this Policy. Further, employees who are granted reasonable accommodations must continue to comply with all applicable Company policies, procedures, practices and rules. An employee who has been granted a reasonable accommodation remains an at-will employee.

[1] This process is also referred to as a "Restriction Review"

## DISABILITY INSURANCE BENEFITS

Employees in California are covered by the state's Disability Insurance program (SDI). Benefits under this program may be payable when you cannot work because of illness or injury unrelated to your employment at the Company, or when you are entitled to temporary workers' compensation benefits at a rate less than the daily disability benefit amount. The SDI program is administered by the California Employment Development Department, and not by the Company. Information concerning this program will be made available to you in the event you are approved for a leave of absence, and may also be obtained at www.edd.ca.gov/Disability or 1-800-480-3287. In compliance with the Company's leave policies, as applicable, an employee must use all accrued and unused Paid Personal Time Off, Sick Pay, or Vacation Pay when an employee is not receiving SDI benefits.

## NON-UNION STATEMENT

The Company strives to provide all employees with the best working conditions, wages, and benefits possible in the retail industry. The Company is a non-union company and desires to remain so. The Company contends that the business upon which everyone depends for a livelihood can best continue its successful growth in a flexible, non-restrictive environment. Further, the Company wants its employees to remain free of the burden of unnecessary dues and assessments for union membership. Additionally, the Company believes it is important to maintain direct, effective communication. As employees of a non-union company, employees can communicate with supervisors and other members of management directly, on a one-to-one basis. The Company desires and makes it possible to discuss and resolve any problems on an individual basis without outside interference. Employees are encouraged to discuss any concerns with their immediate supervisor, other members of management, or the Company's Human Resources Department. All problems are heard, considered and resolved in the fairest way possible. As individuals, employees have the right to think, act, and speak for themselves. The Company respects this right and encourages the exercise of this privilege throughout each employee's career with the Company.

## MOONLIGHTING POLICY

When an employee accepts full-time employment with the Company, the employee agrees to devote his/her best efforts, energies, and skills to performing his/her assigned duties. Consequently, the Company allows its employees to accept outside work only when such work:

1. does not interfere with Company work hours (regular or overtime);
2. does not affect the efficient performance of job duties with the Company; and
3. does not cause the employee to be an accident hazard through fatigue, worry or other conditions.

Note: permission to hold any outside employment or business interests with anyone doing business with the Company, its vendors, or suppliers, must be secured from a Corporate Officer in writing. Failure to secure advance permission may result in immediate disciplinary action, up to and including termination of employment.

## EMPLOYMENT OF RELATIVES POLICY

The Company permits the employment of qualified Relatives of employees as long as such employment does not, in the opinion of the Company, create actual or perceived conflicts of interest. For purposes of this Policy, **"Relative"** is a Spouse, child, parent, sibling, grandparent, grandchild, aunt, uncle, first cousin, or

corresponding in-law, step relation, or any other individuals perceived to be related. **"Spouse"** means an employee having a legal marital relationship, as well as an employee involved in a relationship which in the Company's judgment is characterized by the permanence, duration, and stability normally associated with marriage. The Company will exercise sound business judgment in the placement of related employees in accordance with the following guidelines:

1. Relatives are permitted to work in the same Company facility, provided that no employee may hire, promote, discipline, or give any pay raise to any Relative without prior written approval by the employee's direct supervisor.

2. No Relatives are permitted to work in the same department or in any other positions in which the Company believes an inherent conflict of interest may exist.

3. Employees who marry while employed are treated in accordance with these guidelines.

4. If, in the opinion of the Company, a conflict or apparent conflict arises as a result of the employment of Relatives, one of the employees will be transferred at the earliest practicable time. If, after exhaustion of all reasonable efforts, transferring one of the employees is not practicable, the Company may require the resignation of one of the employees.

## EMPLOYMENT OF MINORS POLICY

The Company will not employ persons under the age of 16 years. Employees under the age of 18 are considered **"Minors"**, and are subject to the restrictions and requirements of the various federal, state, and municipal laws. Most states require Minors to submit proof of age, work permits, or employment certificates as a condition to employment. Employees should consult their supervisors if they have questions regarding the laws affecting Minors.

No Minor may operate any heavy equipment, including floor jacks, forklifts, or any other machinery that may be dangerous. Minors are strictly prohibited from operating and unloading the trash compactors and cardboard balers, however, Minors are entitled to load such equipment. No Minor may operate, set up, adjust, repair, oil, clean, or otherwise use power-driven staple guns.

## PHOTO IDENTIFICATION BADGES POLICY

Each employee issued a photo identification ("I.D.") badge by the Company must wear the I.D. badge bearing his/her own photo when reporting to work and at all times while on the premises. The Company may use I.D. badges to record employee time and attendance and also for visual identification. It is the employee's responsibility to keep possession of his/her I.D. badge. The I.D. badge must be worn on the top half of the employee's person with the picture plainly visible at all times. I.D. badges are for the exclusive use of the employee pictured. Misuse of the I.D. badge is a violation of this Policy and will result in disciplinary action, up to and including termination of employment. Also, I.D. badges are the property of the Company and must be returned when employment ends. A fee will be charged for all lost, stolen or unreturned I.D. badges.

## RETURN OF COMPANY PROPERTY POLICY

At the time an employee separates from the Company, the employee will be required to turn in his/her I.D. badge, backbelt, any supplies the Company provided to the employee, the employee's locker combination lock, and any other Company property in the employee's possession before receiving his/her final paycheck. **The**

**value of any Company property issued and not returned may be deducted from the employee's paycheck.**

## PERSONNEL FILES POLICY

The Company owns and maintains personnel files on each employee. These files are the property of the Company. At the store level, **ONLY** management (excluding assistant managers) shall have access to personnel files. Review of personnel files without management approval as outlined below is strictly prohibited. Personnel files may contain documentation regarding all aspects of the employee's history with the Company such as employment applications, personnel changes, and disciplinary documents. With respect to any medical information collected by the Company, such documents will be maintained in a separate file, not in the general personnel file.

### Employee Review of Personnel Files

Employees may review the contents of their personnel files, as well as any personal medical records maintained in their separate medical files, and receive copies of any documents contained in such files under the following conditions:

1. Current employees may review and/or request a copy of their personnel and/or medical files once every 6 months by submitting a signed written request to their supervisor. A review or copy of documents signed by the employee may be requested by the employee in writing at any time.

2. Separated employees may, within 1 year of separation from employment, receive a copy of their personnel and/or medical files by submitting a signed written request to their former supervisor.

3. Review of a current employee's personnel and/or medical files must take place at or reasonably near the employee's place of employment and during normal business hours.

4. The Company shall bear the cost of copying personnel and/or medical files.

5. The Company shall respond to all valid signed written requests within 7 business days after receipt.

## CHANGE OF PERSONAL INFORMATION

It is important that all personal information about each employee be up-to-date at all times. Therefore, every employee must immediately notify his/her supervisor in writing any time there is a change in the employee's name, telephone number, home address, marital status, number of dependents, beneficiary designations, emergency contacts, or other personal information. **Note: All information sent to the employee's address as listed in the Company's payroll system shall be deemed received by the employee.**

## EMPLOYEE REFERENCE POLICY

In the event the Company receives a request from a third party for a personal or professional reference or employment verification on any current or former employee, the Company may provide **only** the employee's date of hire, date of separation (if applicable), and last position held.

## OPEN DOOR POLICY

The Company sincerely wants every employee to succeed in his/her job and desires to resolve any problems promptly and fairly. If an employee has any problem relating to his/her job, the employee should promptly and frankly discuss it with his/her supervisor. If the employee feels that his/her supervisor is the source of the problem, the employee should speak with the next level of management or the Company's Human Resources Department. The Company instructs management to treat every problem with dignity and respect. An employee will find that an honest and sincere talk with his/her supervisor is generally the easiest and most effective way of dealing with any problem.

**To ensure that a problem or complaint is clearly understood, management may require that the employee provide a detailed written description of the problem or complaint.**

Management will objectively evaluate an employee's problem or complaint, and based on all available information, will make a good faith determination as to what actions, if any, are necessary to reach a fair resolution. Remember, the Company is unable to resolve a problem unless the employee lets the Company know that it exists. Further, while this Open Door Policy provides a means for employees to be heard, it does not promise or guarantee that the employee's opinion will always prevail. However, when an employee brings a problem to management's attention, the employee does so with the full permission and encouragement of the Company.

## CONFLICT RESOLUTION POLICY

It is the intent and hope of the Company that disputes and conflicts between employees and/or related to employment be addressed in a manner which is consistent with the values of the Company. Accordingly, an employee who is a party to a conflict or dispute with another employee is encouraged to address the conflict directly with the other person involved in the conflict in an effort to resolve it. In the event that this effort is unsuccessful, the employee should seek the assistance and involvement of his/her immediate supervisor who may be able to facilitate the resolution of the conflict applying principles outlined within this policy.

An attempt to resolve the conflict under the Conflict Resolution Policy does not prevent an employee from utilizing the Open Door Policy.

### The Four Principles for Peacemaking

Employees should approach conflict resolution in a manner that does more than simply resolves disputes, but also serves others, helps the involved people grow, provides an example of the Company's values, and leads to a more productive and cooperative working relationship between employees. Employees should consider the following peacemaking principles when attempting to resolve conflict:

1. Go to Higher Ground: Employees should see conflict as the opportunity to clarify and live out their highest values and beliefs. Employees should evaluate conflicts to see whether there is an opportunity for forgiveness.

2. Get Real About Yourself: Employees should take responsibility for their contributions to conflicts before criticizing others.

3. Gently Engage Others: An employee in conflict should affirm the relationship with the person with whom he/she is in conflict and confront that person respectfully.

4. Get Together in Lasting Solutions: Employees can preserve relationships through genuine

reconciliation and fair solutions.

If an employee is interested in applying the above principles to a conflict, he/she should contact his/her supervisor, the Chaplain's Office, or the Human Resources Department for guidance.

## SUBMISSION OF DISPUTES TO BINDING ARBITRATION

All employees and the Company mutually agree to submit all employment-related legal disputes (excluding claims for benefits under workers' compensation, unemployment compensation laws, and ERISA-governed benefit plans) between any employee and the Company to binding arbitration. All Company employees are required to sign and return a Mutual Arbitration Agreement as a condition of their employment and continued employment. The Mutual Arbitration Agreement is included at the end of this Employee Handbook.

Arbitration is mutually beneficial to both the Company and its employees. Arbitration provides:

1. Speed. Court proceedings are cumbersome, complicated, and lengthy. The arbitration process is less complicated and quicker.

2. Reduced cost. Employees and the Company will save money by avoiding the costly expense of court litigation. The arbitrator's fee and administrative costs assessed by the arbitrator and/or arbitration provider will be borne solely by the Company.

3. Experienced decision maker. The arbitration procedures require an arbitrator to be experienced in employment-related disputes. For more than thirty years, the United States Supreme Court has encouraged employees and employers to take advantage of arbitrators' experience and knowledge.

Arbitration under the Mutual Arbitration Agreement between employees and the Company shall be conducted by either the American Arbitration Association or the Institute for Christian Conciliation and pursuant to the American Arbitration Association's Employment Arbitration Rules and Mediation Procedures or the Institute for Christian Conciliation's Rules of Procedure for Christian Conciliation, respectively, and any other applicable rules then in effect. At the time the employee submits the dispute to arbitration, the employee will be asked to select which arbitration provider organization to arbitrate the matter: either the American Arbitration Association or the Institute for Christian Conciliation.

Every effort has been made to ensure that all employees have access to a copy of the applicable arbitration rules and procedures as adopted by the American Arbitration Association and those adopted by the Institute for Christian Conciliation. Employees may review the arbitration rules and procedures by:

1. Requesting a copy or copies from the employee's supervisor;

2. Requesting a copy or copies from the Company's Human Resources Department at (877) 303-4547; or

3. Reviewing the complete set of up-to-date rules, forms, procedures and guides available from the American Arbitration Association and the Institute for Christian Conciliation by viewing their websites at www.adr.org and www.peacemaker.net, respectively.

Please review these rules and procedures carefully.

# 3. ORIENTATION, COMPENSATION, AND BENEFITS

## ORIENTATION PERIOD

The first 90 days of a new employee's employment with the Company is considered an **"Orientation Period."** The Orientation Period involves frequent informal evaluations of the employee's progress, attitude, behavior, attendance, and overall job performance. If, during the Orientation Period, an employee fails to meet the Company's expectations for acceptable progress, attitude, behavior, attendance, and overall job performance, the Company may terminate the employee's employment. Successful completion of the Orientation Period does not guarantee continued employment nor does it mean that the employee cannot be disciplined, evaluated or terminated from employment. Nothing contained in this Policy changes the at-will employment relationship between the Company and its employees, and all employees remain at-will at the end of the Orientation Period.

## CLASSIFICATIONS OF EMPLOYMENT

For purposes of eligibility for employee benefits, the Company classifies its employees as follows:

1. **"Full-Time Employee":** Employees hired to work the Company's normal, full-time workweek of 35 hours or more, on a regular basis. The term Full-Time Employee does not include leased, contract, part-time, temporary, or seasonal employees.

2. **"Part-Time Employee":** Employees hired to work fewer than 35 hours per week on a regular basis.

3. **"Seasonal/Temporary Employee":** Employees engaged to work with the understanding that their employment will be terminated no later than upon completion of a specific assignment or period. Seasonal/Temporary Employees do not change their employment classification regardless of the number of hours worked in a workweek. Seasonal/Temporary Employees are not eligible for Holiday Pay, Personal Paid Time Off, Sick Pay, Vacation Pay, Medical and Dental Benefits, Prescription Drug Benefits, Term Life Insurance, Long Term Disability Insurance, Flexible Benefits Accounts, or the 401(k) Plan. (Note: employees hired from temporary employment agencies are employees of the respective agency and not of the Company).

All employees should be informed of their initial employment classification and whether they are exempt or nonexempt under federal wage and hour regulations. If an employee changes positions during his/her employment, the employee should be informed by his/her supervisor of any change in the employee's exemption status. Employees should direct any questions regarding employment classification or exemption status to their supervisors.

## REGULAR PAY PROCEDURES

All Company employees are normally paid by check or direct deposit on a biweekly basis. If a scheduled payday falls on a Company-observed holiday, the employee will usually be paid on the preceding regular business day. All required deductions, such as federal, state, and local taxes, garnishments and wage orders, and all authorized voluntary deductions, such as Medical and Dental Benefit premiums, will be withheld automatically from the employee's paycheck.

Employees should always review their paychecks for errors. If an employee finds a mistake, he/she must immediately report it to his/her supervisor who will assist the employee with correcting the error.

In the event that an employee's paycheck is lost or stolen, the employee must immediately notify his/her supervisor. The supervisor will, in turn, notify the Company's payroll supervisor who will attempt to put a stop-payment notice on the paycheck. If the Company is able to properly stop payment on the lost or stolen paycheck, the Company will issue a new paycheck. However, the Company is not responsible for lost or stolen paychecks, and if the Company is unable to stop payment, the employee alone will be responsible for such loss.

The Company will not release a paycheck to any individual or entity other than the employee to whom it is issued. However, an employee may authorize the Company to release his/her paycheck to a specific individual by providing the employee's supervisor with written directions identifying the individual to whom the paycheck may be released, including such individual's complete street address (no P.O. Box), telephone number (work and home), and a copy of such person's driver's license. Such directive must be signed by the employee in the presence of an authorized individual, such as the employee's supervisor or the payroll supervisor, who will acknowledge receipt by also signing the directive. Such acknowledgement is in no way to be construed that the information contained in the directive is adequate or correct and the Payroll Department reserves the right to reject such directive at any time in its sole discretion. Such directive shall be in force and effect until the authorizing employee terminates the written authorization.

In the event an employee is unable to personally receive his/her paycheck and there is no written directive to give the paycheck to another individual, the paycheck will be mailed to the employee's last known address, without further liability to the Company.

## OVERTIME

The business needs of the Company may require employees to work overtime. If an employee is classified as a nonexempt employee, the employee will receive compensation for overtime work as follows:

1. Employees will be paid at straight time for the first 8 hours worked in any work day up to 40 hours worked in any given workweek and for the first 6 consecutive workdays in a workweek up to 40 hours in a workweek.

2. Employees will be paid one and one-half times the regular rate of pay for all hours worked beyond 8 hours per day or 40 hours in any given workweek.

3. Employees will be paid one and one-half times the regular rate of pay for the first 8 hours worked on the seventh consecutive day of work in a workweek.

4. Employees will be paid double-time the regular rate of pay for all hours worked beyond 12 hours in a day or for working in excess of 8 hours on the seventh workday of any workweek.

Overtime is only given for the number of hours **actually worked** over 8 in a workday or 40 in a workweek, and compensatory time will **not** be given in lieu of overtime pay.

Supervisors will attempt to provide employees with reasonable notice when the need for overtime work arises. However, advance notice may not always be possible. Working overtime without authorization may result in disciplinary action, up to and including termination of employment.

## BENEFITS

The Company offers a full range of benefits to its Full-Time Employees, including: Holiday Pay, Personal Paid Time Off (hourly employees only), Sick Pay (salaried employees only), Vacation Pay, Medical and Dental Benefits, Prescription Drug Benefits, Term Life Insurance, Long Term Disability Insurance, or Flexible Benefits Accounts, and the 401(k) Plan. Full-Time Employees will receive a Benefits Summary Guide within approximately 45 days of their full-time date of hire. The Benefits Summary Guide provides current details regarding all of the benefits provided by the Company, including eligibility requirements. Employees with questions regarding benefits should contact the Benefits Department at (405) 745-1182.

## EMPLOYEE DISCOUNTS

Company employees may receive employee discounts at Hobby Lobby, Mardel, Basket Market, and Hemispheres retail store locations. Discounted sales will be granted to the employee and/or the employee's spouse when verification of identity and employment is established at the time of purchase by showing the individual's driver's license and employee's most recent payroll check stub or I.D. Badge.[1] Discounted sales will not be granted to the employee's friends, relatives or anyone that is shopping for the employee. However, when accompanied by the employee or the employee's spouse/registered domestic partner, members of the employee's household are entitled to discounted sales if employment and identity are verified as described above. Employee discounts between entities will only be honored on a cash, check, credit card, or gift card basis. The discount cannot be used to purchase gift cards. The discount available at **Hobby Lobby**, **Mardel**, and **Basket Market** locations is 15% on all regularly-priced and sale merchandise. The discount available at **Hemispheres** locations is 10% on all regularly-priced and sale merchandise.

## CHAPLAIN SERVICES

The Company believes that the overall emotional, physical, and spiritual health of the employee is essential to proper job performance and healthy living. To help its employees maintain sound emotional and spiritual health, the Company offers the services of its Chaplain. The Chaplain can be reached at (405) 745-1287, and is available to any employee of the Company. If, at any time, the Chaplain feels that an employee's problems or needs reach beyond the Chaplain's services, the Chaplain may refer that employee to outside counseling services or to any available employee assistance program. If the concern is work-related, the Chaplain will encourage the employee to present the concerns to a member of management better suited to address the concern, or the Human Resources Department, in accordance with the Open Door Policy. Further, if the Chaplain feels that the employee may pose a threat of danger to his/her own person or others, the Chaplain, in his/her discretion, may contact the employee's supervisor regarding the need to suspend that employee for safety purposes and refer the employee to the appropriate professional help. All contact with the Chaplain shall remain confidential, and only safety concerns will necessitate contact with the employee's supervisor.

## EMPLOYEE REHIRE POLICY

Any employee who voluntarily resigns or is terminated from employment, and who is later rehired, will be considered a new employee and the eligibility requirements for benefits provided by the Company must be met again, including Holiday Pay, Personal Paid Time Off (hourly employees only), Sick Pay (salary employees only), Vacation Pay, Medical and Dental Benefits, Prescription Drug Benefits, Term Life Insurance, Long Term

[1] As of November 2010, all employees at the Oklahoma City Campus and the Hemispheres Warehouse in Dallas, Texas have Company-issued I.D. Badges.

Disability Insurance, Flexible Benefits Accounts and 401(k) Plan. Any employee currently paying premiums for Hobby Lobby's COBRA, and rehired within 30 days of separation from the Company, should contact the Benefits Department at (405) 745-1182 to learn whether he/she is eligible to begin participating in some of these plans upon rehire. Any employee enrolled in the Flexible Benefits Account who separates from the Company, and then is rehired within 30 days of separation, will automatically be reinstated to his/her most recent election(s) for the remainder of the Plan Year.

# 4. ATTENDANCE, BREAKS, AND LEAVES OF ABSENCE

## TIME CLOCK POLICY

Hourly employees are not permitted to clock in before the start of their shift, unless authorized by their supervisor. Employees are responsible for their own time and are expected to clock in and out at the appropriate times. As set forth in the Company's Loitering Policy, employees are not allowed on Company property either 30 minutes before they clock in or 30 minutes after they clock out. **Working off the clock, failing to properly clock in or out, or clocking in or out for another employee is strictly prohibited and will result in disciplinary action, up to and including termination of employment.**

## ATTENDANCE POLICY

Employee work schedules may vary depending on the needs of the Company. Managers have the discretion to design, change, and assign work schedules in order to meet the needs of the business. For example, full-time employees at retail locations may be required to work two nights per week and Saturday, as needed.

### Absences and Tardies

Employees are expected to report to work on time as scheduled. Failure to do so constitutes a tardy which is defined as clocking in, reporting, and/or returning to work past the scheduled time.

**If an employee is going to be tardy or absent from any scheduled work, he/she must speak directly with his/her supervisor before or within 30 minutes of the beginning of his/her shift, and explain the reason for the tardy or absence.** If an employee fails to speak directly with his/her supervisor as required above, such will constitute a No Call–No Show absence. It is the employee's responsibility to ensure that proper notification is given. Asking another employee, friend, or relative to give this notification is not acceptable, unless there is an emergency which prevents the employee from calling his/her supervisor. Supervisors may request a physician's statement for any illness-related absences for 3 or more consecutive days.

Tardiness and absenteeism are expensive and disruptive, and place an unfair burden on coworkers and the Company. Absences in excess of accrued and approved time-off benefits provided by the Company (for example, Vacation Pay, Personal Paid Time Off Pay, and Family Medical/Military Leave) may be considered excessive. **Tardies and/or excessive absences may result in disciplinary action, up to and including termination of employment** and/or may have an adverse effect on evaluation and promotional considerations.

### No Call–No Show Absences

**"No Call–No Show"** means an employee fails to report to work as scheduled and fails to speak directly with his/her supervisor before or within 30 minutes of the beginning of his/her shift. No Call-No Show constitutes grounds for disciplinary action, up to and including termination of employment. Except when there are extraordinary circumstances, if an employee is a No Call–No Show for 2 consecutive business days, the employee will be deemed to have abandoned his/her job and voluntarily resigned his/her employment.

### No Call–No Show Absences Following a Leave of Absence

When an employee is released to return to work in any capacity following a leave of absence for an occupational injury, or exhausts any other scheduled and/or available leave of absence, including a leave of absence under the Company's Family Medical/Military Leave Policy, the employee must speak directly with his/her supervisor to seek reinstatement within 2 business days of the employee's release or exhaustion of leave. **If an employee fails to timely speak directly with his/her supervisor to seek reinstatement within 2 business days following his/her release to return to work or exhaustion of any scheduled and/or available leave of absence, such failure will constitute No Call-No Show absences, and the employee will be deemed to have abandoned his/her job and voluntarily resigned his/her employment.**

## WORKDAY BREAKS AND SCHEDULES POLICY

**If an employee fails to clock in/out for his/her meal break, the employee must immediately notify management.** Management may request that the employee submit a written statement regarding the missed time card punches. **Failure to properly clock in or out before/after a meal break and/or failure to take meal or rest break(s) may result in disciplinary action, up to and including termination of employment.** Below is a Meal and Rest Break Summary Chart, which should be used in conjunction with the Meal Breaks and Rest Breaks sections below. It is the employee's responsibility to be back in his/her work area promptly after each meal or rest break. The Workday Breaks and Schedules Policy is only applicable to non-exempt employees.

### Meal Breaks

1. Employees should consult their manager for meal break schedules. The manager has the discretion to set and modify the length of the meal break.
2. Every employee who works more than a 5-hour shift in a workday must take a 45 - 60 minute unpaid meal break, as directed by the manager starting no later than at the end of the employee's fifth hour of work within that day. The meal break must be taken as close to the middle of the employee's scheduled work shift as possible, so long as the meal break occurs within the first 6 hours of the shift.
3. If an employee works more than 10 hours in the workday, the employee will be provided the opportunity to take a second 45 - 60 minute unpaid meal break starting no later than at the end of the employee's tenth hour of work.
    a. **Exceptions to #2 and #3 above**: If the employee does not work more than 6 hours in the workday, the Company and the employee may mutually agree in writing to waive the meal break. If the employee works more than 10 hours but fewer than 12 hours in the workday, the Company and the employee may mutually agree in writing to waive the second meal break (as long as the employee's first meal break was not waived). **Such waiver must be submitted in writing to the manager and approved (at the manager's discretion) prior to the meal break to be waived.**
4. Minors may not decline a meal break.
5. Employees are required to clock out before their meal breaks and back in following the meal breaks.

### Rest Breaks

1. Employees should consult their supervisors for rest break schedules.
2. Every employee who works more than 3½ hours in one shift will be authorized and permitted to take a 15-minute paid rest break for each work period of 4 hours. The rest breaks will be permitted as close to the middle of the applicable 4-hour work period as practicable.
3. Employees are to remain on Company property during all 15-minute rest breaks. No breaks are to be taken in work areas.

4. Each 15-minute rest break is to be taken in its entirety. Partial breaks are not permitted.

### Meal and Rest Break Summary Chart

The following chart summarizes the applicable meal and rest breaks authorized and permitted under this Policy based on the number of hours worked in a given workday:

| Hours Worked | Rest Break (15 minutes paid) | Meal Break (unpaid) |
|---|---|---|
| Under 3.5 hours | None | None |
| 3.5 - 5.0 | 1 rest break | None |
| 5.1 - 6.0 | 1 rest break | 1 meal break[1] |
| 6.1 - 10.0 | 2 rest breaks | 1 meal break |
| 10.1 - 11.9 | 3 rest breaks | 2 meal breaks[2] |
| 12.0 – 14.0 | 3 rest breaks | 2 meal breaks |

## LACTATION ACCOMMODATION

The Company also provides a reasonable amount of time for a nursing employee to express breast milk. The Company will make reasonable efforts to provide a private location for this purpose. The break will run concurrently with the rest breaks provided to all employees under the Company's Workday Breaks and Schedules Policy. However, if an employee needs a reasonable amount of additional time, unpaid time will be provided. An employee may choose to use her meal break to express breast milk. An employee needing lactation accommodation should notify management.

## ACCRUED AND APPROVED TIME-OFF BENEFITS PROVIDED BY THE COMPANY

Unless prohibited by law, employees must use accrued and approved paid time-off benefits (for example, Vacation Pay, Personal Paid Time Off, Sick Pay) before taking unpaid time-off.

## VACATION PAY POLICY

An employee is not entitled to any payout of Vacation Pay within the first 90 days of full-time employment including any pro rata portion, if separated from employment within those first 90 days. Full-time employees should consult the Benefits Summary Guide for all other information concerning Vacation Pay.

[1] Refer to Exceptions to #2 and #3 in the Meal Breaks section of the Workday Breaks and Schedules Policy.
[2] Refer to Exceptions to #2 and #3 in the Meal Breaks section of the Workday Breaks and Schedules Policy.

Individuals employed by the Company to work in California will not forfeit any accrued and unused Vacation Pay after 90 days of full-time employment. In lieu of forfeiture, these employees will be paid any remaining Vacation Pay balance the first pay date following each full-time anniversary date.

Any reference to Vacation Pay forfeiture stated in the Hobby Lobby Benefit Summary Guide (BSG) is superseded by this policy for individuals employed by the Company to work in California.

## JURY/WITNESS DUTY POLICY

The Company believes that jury duty is a matter of civic obligation. Part-time employees who are called to jury duty will be provided time off for jury duty but are ineligible for regular wages during jury duty. Full-time employees, who are called to jury duty, will continue to receive their usual pay for the hours they were scheduled to work. Employees must report to work on any day, or part of a day, that the employee is excused from jury duty.

All full-time employees must remit to the Company any compensation received from the court for jury services. Any employee called to jury duty may retain any compensation received for mileage to and from jury duty. Any expenses, such as parking and meals, incurred by the employee while on jury duty that are reimbursed by the court may be kept by the employee.

In addition, any employee subpoenaed as a witness will be granted unpaid time to fulfill this legal responsibility. If an employee is subpoenaed as a witness because of something that occurred in the course of performing an employee's job, paid time may be granted. Verification of jury and witness duty dates and times may be required.

## MILITARY LEAVE POLICY

If an employee is called to Active Duty or to Reserve or National Guard training, or if the employee volunteers for the same, the employee should submit copies of his/her military orders to the employee's supervisor as soon as practicable. The employee will be granted a military leave of absence without pay for the period of military service, in accordance with applicable federal and state laws. An employee's eligibility for reinstatement after military duty or training is completed is determined in accordance with applicable federal and state laws.

If an employee has a parent, child/child of registered domestic partner, spouse/registered domestic partner, or next of kin who is a servicemember (including Active Duty, National Guard and Reserves) or Veteran, and the employee is requesting time off related to that service member's or Veteran's military orders and/or medical condition(s), the employee should refer to the Company's Family Medical and Military Family Leaves Policy or related state and federal statutes for eligibility requirements and other details.

## FAMILY MEDICAL & MILITARY FAMILY LEAVES/CALIFORNIA FAMILY RIGHTS ACT POLICY

### Purpose

The Company recognizes the importance of providing leaves of absence from work to eligible employees to address certain family responsibilities or health concerns. The Company provides qualified employees with up to 12 or 26 workweeks, as applicable, of unpaid family medical leave and/or military family leave in a 12-month period in accordance with the Family and Medical Leave Act ("FMLA"), as amended and the California Family Rights Act (CFRA). It is the intention of the Company that the policy described herein shall satisfy the provisions

of both Acts concurrently unless not allowed by restrictive provisions of either Act. Throughout this policy, these leaves collectively will be called "**Family Medical/Military Leave**".

## How Can Family Medical/Military Leave Be Taken?

Family Medical/Military Leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill servicemember) over a 12-month period. Leave under this policy may be taken in 12 (or 26, if applicable) consecutive workweeks, intermittently (as needed over a 12-month period), or as a reduced work schedule under certain circumstances.

## Eligibility for Family Medical/Military Leave

To be eligible for unpaid leave under the Company's Family Medical/Military Leave Policy, an employee must:

1. have worked for the Company for at least 12 months; and

2. have worked at least 1,250 hours during the 12 months prior to the start of the Leave (unless the employee was absent from work while serving in the military); and

3. work at a location where at least 50 employees are employed at the location or within 75 miles of the location.

## Reasons for Using Family Medical/Military Leave

An eligible employee may take up to **12 workweeks** of unpaid Family Medical/Military Leave in a 12-Month Period for one or more of the following reasons:

1. For the birth of, and to care for, the employee's newborn child within the twelve (12) months following the child's birth;

2. For the placement with the employee of a child for adoption or foster care, and to care for the newly placed child within the twelve (12) months following the placement;

3. To care for a parent, child/child of registered domestic partner, spouse/registered domestic partner (Covered Relation), with a Serious Health Condition;

4. The employee's own Serious Health Condition;

5. For any Qualifying Exigency arising out of the fact that the employee's spouse/registered domestic partner, child/child of registered domestic partner, or parent is in the National Guard, Reserves, or the regular Armed Forces and is called to active duty to a foreign country.

An eligible employee may take up to **26 workweeks** of unpaid Family Medical/Military Leave in a 12-Month Period for the following reason:

1. To care for an ill or injured servicemember of the National Guard, Reserves, or a component of the regular Armed Forces who is the employee's spouse/registered domestic partner, child/child of registered domestic partner, parent or next of kin. The illness or injury must have been incurred during, or aggravated by, active duty.

2. To care for an ill or injured Veteran who was a member of the Armed Forces, National Guard or Reserves at any time during the five-year period preceding the date on which the Veteran undergoes medical treatment, recuperation, or therapy. The illness or injury must have been incurred during active duty.

If an employee and his/her spouse/registered domestic partner are both employed by the Company, their Family Medical/Military Leave entitlements within a 12-month period will be combined so as not to exceed 12 workweeks (or 26 workweeks if the reason for leave is to care for an ill or injured servicemember).

Family Medical/Military Leave is reserved for an employee's leave of absence for the qualifying reasons identified above.

## What is a Serious Health Condition?

A Serious Health Condition is an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment as described below. An employee may take leave for the Serious Health Condition of his/her parent, spouse/registered domestic partner, child/child of registered domestic partner, and/or for his/her own Serious Health Condition which makes the employee unable to perform any one of the essential functions of the employee's position, and may involve:

1. A period of incapacity of more than 3 consecutive, full calendar days, and any subsequent treatment or incapacity relating to the same condition which requires treatment by a healthcare provider; and/or

2. A condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; and/or

3. Any period of incapacity due to pregnancy (including morning sickness), or for prenatal care, even if treatment by a healthcare provider is not received and the employee is absent from work fewer than 3 consecutive work days; and/or

4. Any period of incapacity or treatment due to a chronic serious health condition, even if treatment by a healthcare provider is not received and the employee is absent from work fewer than 3 consecutive work days; and/or

5. Any period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; and/or

6. Any period of absence from work to receive multiple treatments by a health care provider; and/or

7. Any period of absence from work to receive treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider.

There may be additional criteria (such as frequency of visits to a health care provider, or follow-up treatment received) for a medical condition to qualify as a Serious Health Condition. An employee or supervisor with questions about whether a condition qualifies as a Serious Health Condition should contact the Company's Human Resources Department at (405) 745-1640.

## What is a Qualifying Exigency?

An employee, with a spouse/registered domestic partner, child/child of registered domestic partner or parent who is in the Armed Forces, U.S. National Guard, or Reserves and is on active duty, or has been notified of an impending call to active duty, to a foreign country, may take up to 12 workweeks of leave for certain reasons ("**Qualifying Exigency**") relating to the duty or call to duty. The leave may commence as soon as the individual receives the call-up notice. The Qualifying Exigency must be one of the following:

1. To address issues arising from the short-notice deployment (within 7 days of notice);

2. To attend military events and activities including family support and assistance programs or informational briefings;

3. To arrange for alternative childcare or provide urgent, immediate-need childcare, or to enroll a child/children in a new school or childcare facility, or attend meetings at the school or facility, when such need arises due to the call or order to active duty.

4. To make or update financial or legal arrangements, or act as the covered military member's representative regarding military service benefits;

5. To attend counseling provided by someone other than a health care provider for oneself, for the covered military member, or child of the covered military member, provided that the need for counseling arises from the impending call or order;

6. To spend time with a covered military member who is on short-term, temporary, rest and recuperation leave during the period of deployment (each instance of rest and recuperation is limited to 5 days of leave);

7. To attend official ceremonies or programs arising out of the covered military member's deployment, or to address issues that arise from the death of a covered military member while on active duty status;

8. To address and engage in additional activities that arise out of active duty or call to active duty, provided that the Company and the employee agree that such leave qualifies as an exigency, and agree to the timing and the duration of the leave.

An employee or supervisor with questions about eligibility or what constitutes a Qualifying Exigency should contact the Company's Human Resources Department at (405) 745-1640.

## How Does the Company Measure the 12-Month Period?

The Company measures the 12-month period forward from the first day of an employee's Family Medical/Military Leave. Consequently, the employee would be entitled to 12 weeks (or 26 weeks) of Family Medical/Military Leave during the year beginning on the first day Family Medical/Military Leave is taken; the next 12-month period would begin the first day a Family Medical/Military Leave is taken after completion of any previous 12-month period.

## Intermittent/Reduced Schedule Leave

Family Medical/Military Leave for a Qualifying Exigency can be taken intermittently or as a reduced schedule. In the case of Family Medical/Military Leave for a Serious Health Condition or Servicemember Care (Reasons for Using Family Medical/Military Leave #3, 4 and 6), intermittent or reduced schedule leave is

permitted only if medically necessary.

If an employee requests Family Medical/Military Leave for the birth or placement of a child (Reasons for Using Family Medical/Military Leave #1 and 2), intermittent leave or reduced schedule leave is permitted only if both the employee and his/her supervisor agree.

When intermittent or reduced schedule leave is medically necessary, or requested by the employee and approved, the employee must make a reasonable effort to schedule medical treatment or appointments so as not to unduly disrupt the Company's operations. The employee is expected to consult with his/her supervisor prior to the scheduling of intermittent or reduced schedule leave in order to work out a schedule which best suits the needs of both the Company and the employee.

**An employee on intermittent leave must comply with the Company's call-in procedures under the Company's Attendance Policy.**

If intermittent or reduced schedule leave is foreseeable the Company may, in its sole discretion, temporarily transfer the employee to another job with equivalent pay and benefits that better accommodates recurring periods of leave than does the employee's regular position.

## What Happens to Paid Time-Off Benefits While on Leave?

Any accrued but unused paid time-off benefits (*i.e.*, Vacation Pay, Personal Paid Time Off (PPTO), Holiday Pay, and/or Sick Pay, as applicable) will be paid concurrently with (at the same time as) the Family Medical/Military Leave. Employees on Family Medical/Military Leave due to an occupational injury covered under Workers' Compensation will not be required to receive their paid time-off benefits.

During unpaid Family Medical/Military Leave, an employee will not continue to accrue any paid time-off benefits for which he/she is eligible. Such benefits will resume accruing when the employee returns to work.

## What Happens to Health Benefits While on Leave?

During Family Medical/Military Leave, the Company will continue to pay its portion of any applicable medical/dental, life, and long-term disability benefit premiums, provided the employee continues to make his/her regularly-scheduled employee premium payments and contributions. An employee on Family Medical/Military Leave should contact the Human Resources Department at (405) 745-1640 for additional information regarding premium payments and contributions. Failure of the employee to pay his/her share of premiums or contributions will result in loss of benefits.

**An employee must immediately notify the Human Resources Department upon returning to work.** Failure to do so may result in a loss of benefits.

If the employee does not return to work after the expiration of the Family Medical/Military Leave, the employee will be required to reimburse the Company for payment of any health plan premiums or contributions made by the Company on behalf of the employee, along with any unpaid premiums or contributions attributable to the employee's share of health plan coverage during the Family Medical/Military Leave, unless the employee does not return to work because of: 1) the presence of a Serious Health Condition which prevents the employee from performing the essential functions of his/her job or circumstances beyond the employee's control; 2) because of the birth of a child; 3) the death or continued Serious Health Condition of a Covered Relation during the Family Medical/Military Leave to care for such Covered Relation; or 4) the serious illness or injury of a covered servicemember/veteran that would entitle the employee to Family Medical/Military Leave.

## How Does an Employee Request Family Medical/Military Leave?

An employee must notify the Company of his/her need for Family Medical/Military Leave by contacting the Company's Human Resources Department by phone at (405) 745-1640 or by using the form given to the employee by his/her supervisor. All required Family Medical/Military Leave forms must be submitted to the respective Company as listed on the form. The employee must also communicate his/her need for Family Medical/Military Leave to his/her direct supervisor.

When the need for Family Medical/Military Leave is foreseeable, the employee must provide the Company with at least 30 days advance notice of the need for leave. When an employee becomes aware of a need for Family Medical/Military Leave fewer than 30 days in advance of the day leave is to begin, the employee must provide notice of the need for the leave on either the same day or the next business day on which he/she learns of the need for leave. Failure to provide timely notice may result in the Company delaying the approval of the employee's Family Medical/Military Leave request.

Even if leave is not requested, if an employee is eligible for Family Medical/Military Leave and is absent from work for an amount of time and reason which qualify for leave under the Company's Family Medical/Military Leave Policy, the employee may be placed on Family Medical/Military Leave, and may not decline or refuse such leave.

If the Family Medical/Military Leave is not approved by the Company due to the employee's failure to comply with the policy, or the employee does not qualify for leave, the employee's absences will not be deemed Family Medical/Military Leave, and the employee will be subject to the Company's Attendance Policy for any time absent from work.

## What Certification is Required?

The Company will request medical certification of the employee's/family member's Serious Health Condition, or certification of the Qualifying Exigency or serious injury or illness of the covered servicemember. Such certification will be requested prior to the approval of leave and recertification may be requested periodically or if needed during the leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a delay or denial of Family Medical/Military Leave or a cessation of approved Family Medical/Military Leave.

The Company's human resources professional or leave administrator may directly contact the employee's/family member's health care provider to verify or clarify information provided in the medical certification. The employee's direct supervisor will not contact the health care provider. Before the Company contacts the health care provider, the employee will be a given an opportunity to resolve any deficiencies in the medical certification.

## What Must an Employee Do When Calling In Due to a Family Medical/Military Qualifying Reason?

When an employee needs to take a leave of absence from work using Family Medical/Military Leave that has been previously approved (See "How Does an Employee Request Family Medical/Military Leave?", above), the employee must specifically state that he/she is using Family Medical/Military Leave or state the reason which again qualifies him/her for the Family Medical/Military Leave. **Calling in "sick" without providing more information will not be considered sufficient notice to trigger the Company's obligations under this Policy.** An employee on Family Medical/Military Leave must comply with the Company's call-in procedures under the Company's Attendance Policy.

The employee must periodically contact his/her supervisor during the Family Medical/Military Leave regarding his/her status and intent to return to work.

## What Actions are Necessary to Return to Work from Leave?

When an employee exhausts his/her scheduled and/or available Family Medical/Military Leave, the employee must speak directly with his/her supervisor to seek reinstatement within 2 business days following the exhaustion of the employee's scheduled and/or available Family Medical/Military Leave. The employee is also required to provide medical certification of his/her ability to return to work after Family Medical/Military Leave is taken for the employee's own Serious Health Condition or for the birth of a child.

**If an employee fails to timely speak directly with his/her supervisor to seek reinstatement within 2 business days following his/her release to return to work or the exhaustion of the employee's scheduled and/or available Family Medical/Military Leave, the absences will constitute No Call-No Show absences under the Company's Attendance Policy, and the employee will be deemed to have abandoned his/her job and voluntarily resigned his/her employment.**

An employee who timely speaks directly with his/her supervisor within 2 business days following his/her release to return to work or the exhaustion of his/her scheduled and/or available Family Medical/Military Leave, provides the required medical certification, and returns to work as scheduled, is entitled to return to his/her previous or equivalent position without loss of benefits or pay rate.

If at the end of a Family Medical/Military Leave an employee is unable to return to his/her previously-held position, and the Company has fulfilled its obligations, if applicable, under the ADA, the employee may be terminated from his/her employment. If terminated, the employee may be eligible for rehire to a position for which the employee is qualified, if available, and only if the employee has no greater limitations than those with which the employee was hired, if any. The rate of pay will be commensurate with the position regardless of what the employee earned in his/her previously-held position.

## Key Employees

Some salaried employees may be considered Key Employees under the Family and Medical Leave Act. A "**Key Employee**" is a salaried, eligible employee who is among the highest-paid 10 percent of all employees employed by the Company within 75 miles of the employee's work site. If a salaried employee is a Key Employee, and takes a leave of absence under the Company's Family Medical and Military Family Leaves Policy, the Company may deny job restoration at the end of this leave if it determines that such denial is necessary to prevent substantial and grievous economic injury to the operations of the Company. Such a determination will be made as soon as practicably possible and communicated to the employee.

A Key Employee who is notified by the Company that he/she will be denied re-employment will retain the right to take Family Medical/Military Leave and enjoy all the benefits that would otherwise be accorded to him/her during the leave period. If the Key Employee's leave has already commenced when the Company gives notice of its intent to deny restoration, the Key Employee will have a reasonable time in which to return to work. Also, an employee is entitled to request reinstatement at the end of the leave period even if the employee did not return to work in response to the Company's notice. The Company would then determine whether there would be substantial and grievous economic injury from reinstatement.

## PREGNANCY DISABILITY LEAVE

Even if you are not eligible for Family Medical/Military Leave, if you are disabled by pregnancy, childbirth or related medical conditions, you are entitled to take Pregnancy Disability Leave of up to four months, depending on your period(s) of actual disability. Eligibility for Pregnancy Disability Leave begins with the first day of employment. If you are eligible for Family Medical/Military Leave, and Pregnancy Disability Leave, these leaves will run concurrently. Pregnancy Disability Leave does not run concurrently with California Family Rights Act.

You must provide at least 30 days advance notice for foreseeable events. You must provide the Company with certification from a health care provider.

Alternatively, an employee with pregnancy-related physical restrictions may be offered a temporary Transitional Duty work assignment, if such assignment is available, under the Company's Pregnancy-Related Restrictions Policy described within this handbook.

## PAID FAMILY LEAVE

Employees are eligible for California Paid Family Leave (PFL) benefits when an employee takes time-off from work for "family leave" under the Family and Medical Leave Act or California Family Rights Act to care for a new child, or to care for certain family members or a domestic partner with a serious health condition. PFL is administered by the California Employment Development Department and not by the Company. The employee is responsible for applying for PFL. PFL payments do not begin until after a work absence of 7 calendar days, although these days do not have to be consecutive. In compliance with the Company's leave policies, when applicable, an employee must use all accrued and unused Paid Personal Time Off, Sick Pay, or Vacation Pay when an employee is not receiving PFL benefits. For information on PFL, employees should contact 1-800-480-3287 or www.edd.ca.gov.

## STATE LEAVE LAWS

Employees may be eligible for a leave of absence for other reasons not addressed in this handbook: for example, to perform emergency civic duty and training or under circumstances surrounding being a victim of domestic violence, or other serious crimes. Employees seeking leave are encouraged to contact their supervisor or the Human Resources Department at (405) 745-1640 to determine if there is a state-mandated leave for which they are eligible.

# 5. EMPLOYEE CONDUCT

## EMPLOYEE CONDUCT POLICY

All employees are expected to accept certain responsibilities, exhibit a high degree of personal integrity, and conduct themselves in an appropriate manner at all times. Employees are expected to respect others and refrain from any conduct that might be harmful to coworkers or the Company, or that might be viewed unfavorably by current or potential customers.

Conduct that the Company deems unacceptable includes, but is not limited to, the following:

1. Poor job performance or other behavior that does not meet the requirements of the position, or failing to meet management's expectations.

2. Poor customer service.

3. Excessive absences or tardies.

4. Insubordination, refusal to comply with a supervisor's instructions, or failure to perform assigned duties.

5. Failure to perform assigned duties such as housekeeping duties to eliminate tripping, slipping, falling, and other hazards.

6. Theft, fraud, dishonesty, unauthorized discounts, fraudulent refunds, writing insufficient-funds checks, destruction of merchandise or property, violation of criminal laws, or any other conduct that results in a loss or increased risk to the Company.

7. Being impaired by, or under the influence of, Drugs or Alcohol on the Company's premises or job site.

8. Using language that is considered threatening, intimidating, coercive, abusive, profane, or inappropriate.

9. Verbal or physical conduct in violation of the Company's Policy Against Inappropriate Conduct.

10. Immoral or indecent conduct on Company property, or while representing the Company.

11. Failing to comply with the Company's Safety Rules.

12. Fighting, horseplay, practical jokes, disorderly or other conduct which may endanger any employee's well-being or business operations.

13. Use of personal cellular phones (except in an emergency or with permission of the employee's supervisor), recording equipment, or other personal electronic devices (e.g., iPod, MP3 player, etc.) while on duty.

14. Interfering with the work performance of fellow employees, or creating an atmosphere that hinders or interferes with Company operations, or conduct that impacts the work environment in

a negative manner.

15. Falsification of Company records, including but not limited to employment applications or time records.

16. Use of the Company's material, time or equipment for unauthorized purposes or for personal use.

17. Working off the clock, failing to properly clock in or out, or clocking in or out for another employee.

18. Engaging in such other conduct as may be inconsistent with any of the Company's policies, procedures, practices, or rules.

**Any employee who violates this Employee Conduct Policy, or any other Company policy, procedure, practice, or rule may, in the sole discretion of management, be subject to disciplinary action, up to and including termination of employment. Nothing in this Employee Conduct Policy alters the at-will employment relationship between the Company and its employees.**

## POLICY AGAINST INAPPROPRIATE CONDUCT

The Company prohibits unlawful harassment and discrimination and other conduct that is inappropriate for the workplace. "Inappropriate Conduct" means comments or actions that are inappropriate for the workplace, disrupt and/or interfere with work performance, or negatively or stereotypically relate to an employee's race, color, religion, gender, pregnancy, national origin, age, disability, Veteran's status, or other characteristics protected by law. Inappropriate Conduct includes unlawful harassment and discrimination, as well as unlawful sexual harassment as defined below.

### Harassment and Discrimination

The Company is committed to maintaining a work environment that is free from unlawful harassment and discrimination as well as other inappropriate actions and comments that do not rise to the level of unlawful harassment or discrimination. The Company prohibits harassment and discrimination on the basis of race, color, religion, gender, pregnancy, national origin, age, disability, Veteran's status, or other characteristics protected by law. The Company also prohibits **"Inappropriate Sexual Conduct"** which is a form of Inappropriate Conduct and includes unwelcome sexual advances, requests for sexual favors, and other verbal, graphic, or physical conduct of a sexual nature where:

1. submission to such conduct is either an express or implied term or condition of an individual's employment;

2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or

3. such conduct creates a hostile or offensive working environment.

When management makes a good faith determination that an employee has engaged in Inappropriate Conduct, management is obligated to take, and will take, those steps that are reasonably necessary to ensure that the Inappropriate Conduct does not occur again. Any person who engages in Inappropriate Conduct is acting outside the scope of any express or implied authority granted to such person by the Company. Any employee who engages in Inappropriate Conduct will be subject to disciplinary action, up to and including termination of employment.

### Reporting Inappropriate Conduct

If an employee feels that he/she has been subjected to Inappropriate Conduct in violation of the Company's Policy Against Inappropriate Conduct, he/she must **immediately** report the conduct to his/her supervisor, **OR** any other appropriate member of management, **OR** the Company's **Human Resources Department at (877) 303-4547**. An employee need not first make a report to his/her supervisor in order to contact another appropriate member of management or the Company's Human Resources Department. For example, an employee may first make a report to the Company's Human Resources Department. The Human Resources Department will then ensure that the complaint is referred to the appropriate member of management. All complaints of Inappropriate Conduct that appear to violate the Company's Policy Against Inappropriate Conduct will be promptly and thoroughly investigated by an appropriate member of management. If management makes a good faith determination that an employee has violated the Company's Policy Against Inappropriate Conduct, it will then take those steps that are reasonably necessary to ensure the Inappropriate Conduct does not occur again. **The Company prohibits retaliation against any employee who reports Inappropriate Conduct.**

## FRATERNIZATION POLICY

The Company prohibits Fraternization between supervisors and subordinates. **"Fraternization"** means any socializing between a supervisor and subordinate outside of work for dating or illicit purposes, or the engaging by such individuals in any form of dating or illicit relationship during or outside of work, or other socializing which disrupts the work environment, or creates actual or apparent conflicts of interest. Supervisors engaging in Fraternization will be subject to disciplinary action, up to and including termination of employment.

## CONFIDENTIALITY POLICY

Information relating to the business of the Company or any of its related entities, corporations, partnerships, joint ventures, directors or customers is confidential and must not be divulged any of this information to outside parties without the prior written consent of a supervisor. Nor shall any such confidential information be utilized for the personal gain of any employee. All such information must be kept completely confidential during, and subsequent to, employment with the Company. Failure to follow this Confidentiality Policy shall subject the offending employee to disciplinary action, up to and including termination of employment and such other available legal penalties. The following is intended as a guide to the types of confidential information and material:

- Matters of a business nature such as information about disbursements, costs, revenues, pricing, profits, markets, lists of customers, business data regarding customers and suppliers, and plans for future expansion or development;

- Matters of a non-public, technical nature such as computer programs, data files, software and supporting documentation, training programs, delivery processes, procedure manuals, and related methods or technologies;

- Confidential data about employees, including employee pay rates and performance evaluations; and

- Any information that if disclosed, could adversely affect the Company's business.

## BULLETIN BOARDS POLICY

Bulletin boards have been installed in each store and on campus throughout the warehouses and break rooms. These Employee Information Boards are solely reserved for Company matters of employee interest and information related to employment with the Company. Employees may not post information on these boards. Any information not posted by management will be removed.

In some locations, additional bulletin boards may be reserved for employees to post information of interest to fellow employees. Employees should confirm that a bulletin board is for employee use before posting information on it. These boards will be monitored by management. Any posting that contains information deemed inappropriate, disruptive, or in violation of Company policy will be removed. Postings will be removed every Friday regardless of when the postings were placed on the board.

## SOLICITATIONS AND DISTRIBUTIONS OF LITERATURE POLICY

In the interest of maintaining a proper business environment and preventing interference with work and any inconvenience to others, employees may not distribute literature or printed materials of any kind, sell merchandise, solicit financial contributions, or solicit for any other cause during work time. During work time, items of this nature shall not be in the immediate physical possession or control of the employee, and must either be kept in the employee's personal locker or outside of the physical work place, (*i.e.*, an employee's automobile). Employees who are not on work time (*e.g.*, those on break) may not solicit for any cause or distribute literature of any kind to employees who are on work time. Employees may not sell merchandise on Company property. Furthermore, employees may not distribute literature or printed material of any kind in work areas at any time.

Non-employees are likewise prohibited from distributing material or soliciting employees on Company premises at any time, unless prior approval is obtained from the Company.

## LOITERING POLICY

In the interest of maintaining a safe and efficient working environment, employees may not enter Company property more than 30 minutes before they are scheduled to clock in and/or report to work. Further, employees may not remain on Company property more than 30 minutes after clocking out and/or completing their workday. Company security or management will direct employees found on Company property in violation of this Policy to immediately leave. Employees violating this Policy may be subject to disciplinary action, up to and including termination of employment.

## SMOKING POLICY

To maintain a safe and comfortable working environment and to ensure compliance with applicable regulations, smoking or using smokeless tobacco in the Company's offices, warehouses, or other work facilities is strictly prohibited. Smoking and smokeless tobacco are only allowed in designated smoking areas. Employees smoking or using smokeless tobacco in any nonsmoking area may be subject to disciplinary action, up to and including termination of employment.

## GIFTS AND GRATUITIES POLICY

Employees, regardless of their position, may not accept for their personal benefit, gifts, gratuities, trips, cash, samples, etc., from anyone doing business with or in any way serving the Company. "**Gifts**" and "**Gratuities**" include tickets to entertainment events, kick backs in the form of money or merchandise, special discounts, discontinued samples, vendor paid trips and Christmas gifts. All such items received become the property of the Company. The Company strongly recommends that buyers, managers, department heads, and all other employees pay for their own meals when dining with anyone doing business with or in any way serving the Company. It is also suggested that employees should be with their families at the end of the workday, and unless the situation is unique, should avoid after-hour engagements with anyone doing business with or in any way serving the Company.

## EMPLOYEES SELECTED TO REPRESENT THE COMPANY

It is a privilege for an employee to be selected to represent the Company outside of the workplace. Every employee selected to perform any task that requires leaving the workplace must remember that appropriate, professional, and responsible behavior is required at all times. Every person traveling for the Company represents the Company at all times.

## APPEARANCE AND DRESS CODES POLICY

Favorable personal appearance is an ongoing requirement of employment with the Company. Hairstyles, clothing and jewelry should conform to the best standards of business and professional modesty in order to ensure a comfortable and professional working environment for all employees. Clothing, jewelry, and hairstyles should not be excessive or extreme in appearance. Where applicable, clothing, jewelry, and hairstyles should not change so dramatically that for identification purposes, an employee's Company-issued I.D. Badge no longer matches the appearance of the person. Furthermore, when an employee's appearance causes disruption in the workplace and/or the creation of an uncomfortable working environment for others, corrective, disciplinary action will result. Radical departures from conventional dress, personal grooming and appearance, and jewelry attire are not permitted.

Employees who violate the Company's Appearance and Dress Codes Policy may be asked to leave the workplace and change their appearance before returning to work. Time away from work will be unpaid. Failure to comply with the standards in this Policy will result in disciplinary action, up to and including termination of employment.

### All Retail Store Locations Dress Code

The Company will provide and may require employees to wear Company attire such as a monogrammed Company smock, vest, or shirt, and a nametag. Employees must always dress and keep personal hygiene standards professional in order to properly greet the public.

**Store managers have final discretion as to what is acceptable.** Though not all inclusive, the following list is **not** appropriate attire for the stores:

1. Shorts of any type (excluding tailored walking shorts and short suits, which must be worn with hose and must be no shorter than 4 inches above the top of the knee cap).
2. Muscle shirts, halter-tops, crop tops (*i.e.*, tops which show any portion of the midriff), and tank tops.

3. Sleeveless shirts (excluding tailored blouses and dresses).
4. Dresses, culottes, skorts, or skirts that are shorter than 4 inches above the top of the kneecap.
5. Sandals.
6. Foul, offensive, or controversial clothing and/or accessories.
7. Sweat suits, lounge wear, or jogging suits.
8. Frayed or torn clothing or clothing with visible holes or patches.
9. Pants or skirts that touch or drag on the floor.
10. Spandex pants or leggings unless covered by a shirt or dress that reaches mid-thigh.
11. Visible undergarments.
12. Visible tattoos.
13. Females - Visible body piercing beyond two earrings in each ear.
14. Males - Earrings. The wearing of earrings is unacceptable.

## USE OF COMPUTERS, EMAIL, INTERNET, PHONES AND VOICEMAIL POLICY

Providing, exchanging and retrieving information electronically by utilizing computer technology presents valuable opportunities for the Company. While employees are encouraged to use this technology, its use carries important responsibilities. Employees are expected to exhibit the same high level of ethical and business standards when using this technology as they do with more traditional workplace communication resources.

Computers, computer systems and electronic media equipment (including computer accounts, voicemail, laptop computers, printers, networks, software, electronic mail, Internet and World Wide Web access connections) at the Company are provided for the use of employees for Company business-related use. It is the responsibility of employees to see that these information systems are used in an efficient, ethical and lawful manner.

The use of information systems is a privilege extended by the Company, which may be withdrawn at any time. An employee's use of computer systems may be suspended immediately upon discovery of a possible violation of this Policy. A violation of the provisions of this Policy may result in disciplinary action, up to and including termination of employment.

### Computer Usage

The following Policy relates to the responsible use of computers and computer service and electronic media resource at the Company:

1. These resources are Company property and are to be used solely for business purposes. Access by employees is authorized by the Chief Information Officer and can be revised, restricted or revoked at any time.

2. Fraudulent, harassing, threatening, discriminatory, inappropriate, sexually explicit or obscene messages and/or materials are not to be transmitted, printed, requested or stored. Chain letters, solicitations and other forms of mass emails are not permitted. Email may not be used to solicit donations or support on behalf of individuals or organizations.

3. Employees are responsible for protecting their own passwords. Sharing user I.D.s, passwords, account access codes or numbers is discouraged. Employees may be held responsible for misuse that occurs through such unauthorized access.

4. The Company provides an electronic mail system and network connections for internal and external business communication and data exchange purposes. Although employee passwords are required for access, these systems cannot guarantee confidentiality. In fact, use and access

may be monitored and tracked by management at any time. Even though files, data, or messages may appear to be deleted, procedures by the Company to guard against data loss may preserve material for extended periods of time.

5. In order to maintain and assure Company access to Company data, no employee is permitted to use encryption devices on a Company computer without express written authorization from the Chief Information Officer. Any employee authorized to use encryption-coding devices and other security protection devices must provide the applicable keys and codes in a sealed envelope to the Chief Information Officer where they will be retained in a secure environment.

6. Introducing or using software designed to destroy or corrupt the Company's computer system with viruses or cause other harmful effects is prohibited. Employees are required to use the Company provided anti-virus software.

## Software and Software Licensing

Only software provided by the Company is permitted to be used on Company computers.

1. All software on Company computers and networks must be installed, used and properly licensed in accordance with the software license terms or other applicable agreements. This includes all off-the-shelf and custom-developed software, as well as shareware, freeware and public domain programs.

2. File sharing programs are prohibited.

3. No software should be downloaded and/or installed except by the Information Services group. Appropriate departmental consent is required.

4. Software audits will be performed periodically and all unauthorized software will be removed. As unauthorized software is often the source of computer viruses, all unauthorized software for example - AOL, Instant Messaging (IM), any Internet multimedia software, games, etc. will be removed.

## Portable Computers and Storage Devices

Employees in the possession of portable laptop, notebook, handheld, and other transportable computers containing confidential or Company information must not leave these computers unattended at any time unless the information is stored in encrypted form.

Employees in the possession of transportable computers containing unencrypted confidential or protected Company information must not check these computers in airline luggage systems or with hotel porters or leave them unattended at any time. These computers must remain in the possession of the employee as hand luggage.

Whenever confidential or Company information is written to a floppy disk, magnetic tape, smart card, or other storage media, the storage media must be suitably marked and secured. When not in use, this media must be stored in locked safe, locked furniture, or a similarly secured location. Employees at remote working locations must promptly report to their supervisor and Information Services any damage to or loss of Company computer hardware, software, or sensitive information that has been entrusted to their care.

## Email Usage

Employees are permitted to use the Company's email system only as provided below. All messages distributed via the Company's email system, even personal emails, are Company property. Employees must not have an expectation of privacy in anything that the employee creates, stores, sends or receives on the Company's email system. An employee's email can be monitored without prior notification if the Company deems necessary. If there is evidence that an employee is not adhering to the proper use of email, the Company reserves the right to take disciplinary action, up to and including termination of employment.

Employees are prohibited from:

1. Sending or forwarding emails containing defamatory, offensive, discriminatory, inappropriate, or obscene remarks. If an employee receives an email of this nature, the employee must promptly notify his/her supervisor.

2. Forwarding a message or copy of a message or attachment belonging to another user without acquiring permission from the user.

3. Sending unsolicited email messages, jokes, anecdotes, chain mail, non-work related photos or mass email.

4. Forging or attempting to forge email messages, or disguise or attempt to disguise the employee's identity when sending email.

Employees must take the same care in drafting an email as they would for any other communication. Confidential information should not be sent via email.

Although the Company's email system is meant for business use, the Company allows personal usage if it is reasonable and does not interfere with business operations.

## Internet Usage

The Company requires that employees conduct themselves honestly and appropriately on the Internet. Employees must respect the copyrights, software licensing rules, property rights, privacy and prerogatives of others, just as the employee would in any other business dealings. Employees must understand that all existing Company policies apply to the employees' conduct on the Internet, especially those policies that deal with intellectual property protection, privacy, misuse of Company resources, harassment, information and data security and confidentiality.

The Company has software and systems in place that can monitor and record all Internet usage. Employees need to be aware that the Company's security systems are capable of recording (for each and every user) each World Wide Web site visit, each chat, newsgroup or email message and each file transfer in or and out of the Company's internal networks. Expect that the Company will do so at any time.

The Company has the right to inspect any and all files stored in private areas of the Company's networks in order to assure compliance with the Company's Computer Usage policy.

The display of any kind of sexually explicit image or document on any Company system is a violation of the Company's policies and is prohibited. Also, sexually explicit material may not be archived, stored, distributed, edited or recorded using Company networks or computing resources.

The Company uses software and data to identify inappropriate or sexually explicit Internet sites. The

Company may block access from within the Company's networks to all such sites of which the Company is aware. If an employee accidentally connects to a site that contains sexually explicit or offensive material, the employee must disconnect from the site immediately, regardless of whether that site was previously deemed acceptable by the Company's screening or rating program.

The Company's Internet facilities and computing resources must not be used knowingly to violate the laws and regulations of the United States or any other nation, or the laws and regulation of any state, city, province or other local jurisdiction in any material way. Use of any Company resources for illegal activity will result in immediate termination of employment.

No employee may use the Company's Internet facilities to deliberately propagate any virus, worm, Trojan horse or trap door program code.

No employee may use the Company's Internet facilities knowingly to disable or overload any computer system or networks or to circumvent any system intended to protect the privacy or security of another user.

The use of the Company's Internet access facilities to commit infractions (such as misuse of Company assets or resources, harassment, unauthorized public speaking, or misappropriation or theft of intellectual property), is prohibited by general Company policy and will be sanctioned under the relevant provisions of the Employee Handbook.

Use of news sites and news briefing services is permissible in the interest of keeping the Company and employees well informed.

The Company will comply with reasonable requests from law enforcement and regulatory agencies for logs, diaries and archives on individual Internet activities.

Employees with Internet access may download software with direct business use only and must arrange to have it properly licensed and registered. Downloaded software must be used according to the terms of its license. Entertainment software or games may not be downloaded and employees may not play games against opponents over the Internet. Images or videos may not be downloaded unless there is an explicit business-related use for the material.

Employees must schedule communication intensive operations, such as large file transfers, video downloads, mass emails and similar activities for off-peak times as defined by the Company.

The Company has installed appropriate firewalls, proxy Internet address screening programs and security systems to assure the safety and security systems of the Company's networks. Any employee who attempts to disable, defeat or circumvent any Company secured facility is subject to immediate dismissal.

Computers that use their own modems to create independent data connections evade the Company's network security mechanisms, allowing an individual computer's private connection to an outside computer to be used by an attacker to compromise any Company network to which that computer is attached. Accordingly, any computer used for independent dial up or leased-line connection to an outside computer or network must be physically isolated from the Company's internal networks. (Major on-line service and content providers may be accessed via firewall-protected Internet connections, making unsecured direct dial-up connections generally unnecessary). Only those Internet service and functions with documented business purposes will be enabled at the Internet firewall.

## Cell Phone or Smart Phone Usage

All Company issued cell phones are subject to the same provisions within this Policy for computer, email, telephone, internet, and voicemail usage. Personal phones connected to the Company network are also subject to the same provisions within this Policy, with respect to protection of Company security, contacts, documents, and other data. Use and access can be monitored and tracked by management at any time without notice to the employee.

Any Company issued or personal phone connecting to the Hobby Lobby network that is lost or stolen should be immediately reported to the Information Services Help Desk for data loss mitigation.

## Telephone Usage

The Company's telephones are for business use only. Supervisors, in their sole discretion, may choose whether or not personal telephone calls may be made or received during business hours. If an employee's supervisor allows personal phone calls from friends and relatives, such should be kept to a minimum. Of course, emergency phone calls are permitted. Employees are prohibited from making personal long distance calls at the Company's expense.

## Voicemail Usage

Voicemail is a resource provided by the Company and is the property of the Company. Its use is solely for business purposes.

The use of voicemail is a privilege extended by the Company. Voicemail use may be suspended immediately upon the discovery of a possible violation of this Policy. A violation of the provisions of this Policy may result in disciplinary action, up to and including termination of employment.

Harassing, threatening, discriminatory, inappropriate, sexually explicit or obscene messages are not to be transmitted or stored. The use of voicemail for any reason other than legitimate business purposes of the Company is prohibited.

Employees are responsible for protecting access to voicemail. Employees are discouraged from sharing voicemail. Employees may be held for responsible for misuse that occurs through unauthorized access.

Voicemail is intended for business use and as such does not offer any of the privacy protections of a personal system. Select Company personnel will have access to all employees' voicemail. If there is a business necessity, a manager or supervisor may access the system. While the concept of business necessity and a respect for legitimate confidentiality guide the Company's actions, outsiders may not share these concerns. The Company encourages all employees to use passwords and encryption with prior approval to decrease the likelihood that unauthorized people will be able to access employees' voicemail. Unfortunately, these methods are not foolproof. For this reason, employees are encouraged to be cautious when leaving messages on voicemail systems.

Use and access can be monitored and tracked by management at any time and without notice to employees. Even though messages may appear to be deleted, procedures by the Company to guard against data loss may preserve material for extended periods of time. Access to voicemail and voicemail records will also be provided to third parties, such as law enforcement, when requested.

Any activity that could damage the Company's reputation or potentially put employees and the Company at risk for legal proceedings by any party is prohibited.

## Online Interaction with Customers

In an effort to resolve customer service issues in a consistent manner, employees should refrain from responding to messages posted online by customers. Instead, employees should refer all such matters to the Customer Service Department as necessary.

# 6. HEALTH, SAFETY, AND OCCUPATIONAL INJURIES

## SAFETY RULES

The following Safety Rules are for the safety of all employees. Although there is no way to identify every possible rule to ensure the complete safety of all employees, the following is a partial list included in the Company's Safety Rules. Management may identify additional Safety Rules that are specific to a particular job or task. **Employees who violate any of the Company's Safety Rules will be subject to disciplinary action, up to and including termination of employment.**

1. Always maintain attentiveness to the work environment to avoid open and obvious conditions that may result in injuries if the employee is inattentive.
2. No riding on manual (non-automated) pallet jacks or picking carts.
3. Do not throw bands from boxes on the floor.
4. Do not push a pallet jack; always pull the jack unless you are pushing pallets back in the bays.
5. Do not walk across a pallet on the floor, step around it.
6. Pay extra attention to what you are doing when using a box knife.
7. Do not break tape with your teeth; use a pencil or a box knife.
8. Be alert at all times for forklifts. Yield and be cautious.
9. Do not ride as a passenger on the forklifts.
10. Do not jump in or out of the dock doors.
11. Always lift with your legs, not your back.
12. If required by your department, you must wear a back belt.
13. Be sure that you stay at least 10 feet away from forklifts when you are lifting in the warehouse racks.
14. Do not lean pallets against walls, structure poles or merchandise.
15. Be sure that pallet jacks are in the down position before loading merchandise.
16. No horseplay will be allowed.
17. Do not climb on racks.
18. Ensure that ladders are in the locked position before using.
19. Do not drop pallets on the floor; pallets could bounce up and injure an employee.
20. Do not lean dock plates against walls, structure poles or merchandise.
21. Use correct dock plate when loading or unloading trailers with forklift.
22. Only licensed operators are allowed to operate forklifts or rider pallet jacks.
23. Forklift drivers should sound horn when approaching people, blind corners and at all intersections.
24. Drive all forklifts slowly, especially in the main aisle ways.
25. Forklifts should be driven with forks down, slightly off the floor.
26. Never lift up a person on the forks without a personnel cage.
27. Forklifts are only allowed in trailers when approved by management and trailer wheels are properly chocked.
28. Forklifts should be driven in reverse, except when putting pallets in bays.
29. Never operate machinery unless all guards and safety devices are in place and in proper operating order.
30. Keep all equipment in safe working condition. Never use defective tools or equipment.
31. Report any defective tools or equipment to your supervisor.
32. Maintenance, unjamming, and adjustments of equipment are to be made only when the equipment is turned off and all power sources have been disconnected.
33. Compliance with all federal, state, and governmental regulations, including OSHA rules is

required.

34. Do not stand or sit on any equipment that is not designed for that purpose.
35. Do not leave materials in aisles or walkways.
36. All machinery should be turned off when not in use.
37. Loose clothing or jewelry should not be worn around any rotating machinery. Likewise, long hair should be secured around any machinery.
38. Only employees 18 years of age or older, and designated by management as qualified, may maintain the key for, operate, and unload trash compactors and cardboard balers. Under no circumstances may such designated person(s) leave the key in the equipment when not in use or give the key to any Minor or unauthorized person.
39. Only employees 18 years of age or older may use power-driven staple guns.
40. Only employees 18 years of age or older may operate any heavy equipment, including floor jacks, forklifts, or any other machinery that may be dangerous.

## SAFETY EQUIPMENT POLICY

The Company may provide safety equipment for the protection of employee health. All employees must wear or use the appropriate equipment. Employees should consult their supervisor as to which of the following equipment they are required to use:

- Back Belts: The Company requires employees to wear back belts in some of its manufacturing and warehouse facilities. Employees should discuss this requirement with their supervisor. Also, back belts are available upon request.

- Safety Glasses: The Company requires employees to wear safety glasses in many of its manufacturing facilities, including frame departments. Employees who are required to wear safety glasses, and who wear prescription glasses, must have plastic shield guards on the sidepieces of their glasses.

- Safety Gloves: The Company may require the use of cut resistant gloves when handling glass. All store frame shop employees will have gloves issued to them for mandatory use.

- Ear Plugs: The Company requires employees to wear earplugs to protect their hearing in many of its manufacturing facilities.

- Respirators: The Company requires employees working in some manufacturing areas to wear respirators.

## WEAPONS POLICY

Employees are prohibited from carrying or possessing any Weapon, whether concealed or unconcealed, upon or about their person or in a purse or other container while on Company property (including parking lots) or while acting within the scope of Company business, without prior written consent from the Company. This policy applies equally to anyone who has a license from any state to carry any Weapon, regardless of whether the Weapon is concealed. This includes, but is not limited to, those individuals carrying concealed handguns pursuant to any license or permit issued by any state or other authority, other than duly licensed peace officers or security personnel in the lawful performance of their official duties. Violation of this Policy may result in disciplinary action, up to and including termination of employment. The term **"Weapon"** means any pistol, revolver, shotgun or rifle whether loaded or unloaded, or any dagger, bowie knife, switchblade knife, spring-type knife, sword cane,

knife having a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, blackjack, loaded cane, billy club, hand chain, metal knuckles, or any other offensive Weapon, whether such Weapon be concealed or unconcealed.

## WORKPLACE SEARCHES POLICY

To safeguard the property of employees, customers, and the Company, and to carry out the Company's Drug and Alcohol Policy as well as the Company's Weapons Policy, the Company has adopted this Workplace Searches Policy. The Company reserves the right to question employees and all other persons entering and leaving the Company's premises, and to inspect any packages, parcels, purses, handbags, briefcases, lunch boxes, or other personal property, automobiles in the parking lot or on Company property, or any other possessions or articles carried to and from Company property. As a condition of employment, employees, upon request, must provide all such personal property for inspection or search. All property in the workplace is considered Company property and subject to search. In addition, the Company reserves the right to search any employee's office, desk, files, locker, or any other area or article on Company premises. Thus, it should be noted that all offices, desks, files, lockers, and so forth, are the property of the Company, and are issued for the use of employees only during their employment with the Company. Inspections may be conducted at any time at the discretion of the Company.

In conjunction with implementing this Policy, the Company has posted notices in conspicuous places throughout the Company's facilities informing all persons of the Company's policy and right to question individuals and conduct inspections.

Persons entering the premises who refuse to cooperate in an inspection conducted pursuant to this Policy will be escorted from the premises. Employees on, entering, or leaving the premises who refuse to cooperate in an inspection may be subject to disciplinary action, up to and including termination of employment.

## OCCUPATIONAL INJURIES POLICY

The Company is committed to providing a safe environment for its employees. The Company prides itself on providing a clean facility free of obstructions and unsafe practices. However, the Company realizes that injuries do occur. **Therefore, if an employee is injured on the job, it is the employee's responsibility to report the injury immediately to his/her supervisor. If an employee fails to report an occupational injury in a timely manner, the employee may be subject to disciplinary action. Further, failure to report an occupational injury in a timely manner may impede the employee's ability to obtain benefits.**

After an employee reports an occupational injury, the employee's supervisor will obtain the California Employee Occupational Injury Packet and follow the guidelines and checklist for instructions on completing the packet. The employee will be offered medical treatment. All occupational injuries will be referred to the Company's Risk Management Department for investigation and coordination of benefits. All follow-up care and referrals will be coordinated with the Company's third-party administrator (TPA) and the designated adjuster in the Company's Risk Management Department.

Any work time missed by an employee in excess of 3 consecutive calendar days due to an occupational injury will be considered a Serious Health Condition and all time missed will be counted against the employee's available leave under the Company's Family Medical and Military Family Leaves Policy, if any.

If the employee's claim relating to a reported occupational injury is denied, the employee must either: (1) immediately contact his/her supervisor to seek reinstatement and provide a Full Duty release (as defined below) from his/her accredited medical professional, or (2) if eligible, submit a request for Family Medical/Military Leave as required under the Company's Family Medical and Military Family Leaves Policy.

An employee off work due to an occupational injury, who is covered under the Company's Medical and Dental Plan for Hobby Stores, Inc., may continue participation by paying his/her regularly-scheduled employee premium. As set forth in the Medical and Dental Plan for Hobby Lobby Stores, Inc. Summary Plan Description, coverage for an employee who is absent from work shall not exceed 6 months.

## Transitional Duty

Except as required by the Americans with Disabilities Act ("ADA"), Transitional Duty work assignments *may* be provided to employees under medical supervision for ***occupational injuries only*** when the injury results in the employee's temporary inability to perform all of the essential functions of the employee's job. When an employee is released to return to work in a Transitional Duty capacity, the employee must contact his/her supervisor and seek reinstatement within 2 business days following such release. **If an employee fails to speak directly with his/her supervisor to seek reinstatement within 2 business days following the employee's release to return to work in a Transitional Duty capacity, such will constitute No Call-No Show absences under the Company's Attendance Policy.**

**"Transitional Duty"** means a temporary work assignment within the Company, with equal or lesser pay, which may be in a different position than the employee previously held, and where the employee performs most of the essential functions of the position while recognizing any documented restrictions.

**"Restrictions"** means written directives from an accredited medical professional indicating that the employee is unable to perform one or more of the essential functions of the position the employee held prior to his/her occupational injury.

Except as required by the ADA, the Company does not provide permanent Transitional Duty work assignments. All Transitional Duty work assignments are temporary in nature and may be available for a time period not to exceed 90 consecutive days, inclusive of weekends. The 90-day period begins on the first day the employee provides the Restrictions to his/her supervisor or the Risk Management Department stating such employee is unable to perform one or more of the essential functions of the job, but may return to work in a Transitional Duty capacity.

At the end of the employee's Transitional Duty work assignment, the employee must be at a Full Duty capacity in order to return to his/her previously-held position. An employee is "**Full Duty**" if his/her physician indicates in writing that the employee is able to perform all of the essential job functions of the position the employee held prior to his/her occupational injury, with no greater limitations than those with which the employee was hired, if any. At the end of the employee's Transitional Duty work assignment, if the employee has not been released at a Full Duty capacity then the employee may be placed on a leave of absence (Family Medical/Military Leave, if eligible).

## Release and Reinstatement to Work

When an employee is released by his/her physician to return to work in any capacity following an occupational injury (*i.e.* Full Duty, Transitional Duty, or with Restrictions), the employee must speak directly with his/her supervisor and seek reinstatement within 2 business days following the release. **If an employee fails to speak directly with his/her supervisor and seek reinstatement within 2 business days following the employee's release to return to work in any capacity following an occupational injury, such will constitute No Call-No Show absences under the Company's Attendance Policy.**

Unless the employee seeks reinstatement within 2 business days of the exhaustion of his/her Family Medical/Military Leave, there is no guarantee that a position will be available upon the employee's release to

return to work.

## PREGNANCY-RELATED RESTRICTIONS POLICY

If an employee is pregnant and her physician has imposed pregnancy-related physical restrictions upon her, the Company may offer a temporary Transitional Duty work assignment, if such an assignment is available, during the term of pregnancy.

The employee must request from her supervisor a description of the Transitional Duty work assignment, and the assignment must be approved by her physician in writing before the assignment may commence. The employee may be placed on an unpaid leave of absence pending the approval of the Transitional Duty work assignment by her physician. If the functions of the employee's Transitional Duty work assignment subsequently change, the pregnant employee must get written approval from her physician before she can continue the Transitional Duty work assignment under the changed conditions. Pregnant employees working in a Transitional Duty capacity must continue to comply with all other Company policies, procedures, practices, and rules.

## DRUG AND ALCOHOL TESTING POLICY

### Purpose and Scope

It is the policy of the Company to provide a work environment for all of its employees that is free from the effects of Drug and Alcohol use. To achieve these goals, the following is prohibited:

1. Use, sale or possession of any Drug/Alcohol while on the job or at any time on Company property (including parking lots) or in Company vehicles; and

2. Impairment on the job because of the use any Drug or consumption of Alcohol.

Because of the potential for increased safety and financial risks which could result from Drug and/or Alcohol use at work, it is imperative that the Company adopt a stringent policy of Drug and/or Alcohol Testing for its employees.

This Drug and Alcohol Testing Policy is intended to be construed in a manner consistent with all applicable federal, state, and municipal laws. All Company employees are subject to the provisions of this Drug and Alcohol Testing Policy.

This Drug and Alcohol Testing Policy provides for Employment Applicant Testing, Reasonable Suspicion Testing, Accident Testing, and Rehabilitation Testing of all employees. Critical Position Employees or employees participating in the EAP will also be subject to Scheduled Periodic Testing for Drug and/or Alcohol use.

### Definitions

As used in this Policy, the following terms have the meanings stated:

1. "**Accident Testing**" means that an employee may be required to undergo Drug and Alcohol Testing when an employee has been involved in an accident and the Company has Reasonable Suspicion that the employee was under the influence of Drugs and/or Alcohol, or the accident was a serious one.

2. "**Alcohol**" means ethyl alcohol or ethanol.

3. "**Critical Position Employee**" means an employee whose work responsibilities or position place them in a safety sensitive department, i.e., forklift operator, machine operator, etc. An individual who is deemed a Critical Position Employee should be advised of such designation at the time of hire or assignment. Critical Position Employees may be required to undergo Scheduled Periodic testing.

4. "**Drug**" means all drugs or their metabolites that have been approved or deemed approved for testing by the respective state, including the following:

    i. marijuana;
    ii. opiates/synthetic narcotics:
        a. codeine;
        b. hydrocodone;
        c. hydromorphone;
        d. meperidine;
        e. methadone;
        f. oxycodone;
        g. propoxyphene;
        h. heroin;
        i. morphine;
    iii. cocaine;
    iv. phencyclidine;
    v. amphetamines:
        a. amphetamines;
        b. methamphetamines;
        c. methylenedioxyamphetamine;
        d. methylenedioxymethamphetamine;
        e. phentermine;
    vi. barbiturates:
        a. amobarbital;
        b. butalbital;
        c. phenobarbital;
        d. secobarbital;
    vii. benzodiazepines:
        a. diazepam;
        b. chlordiazepoxide;
        c. alprazolam;
        d. clorazepate; and
    viii. methaqualone.

5. "**Drug/Alcohol Test**" means a chemical test administered on a Sample for the purpose of determining the presence or absence of a Drug and/or Alcohol in a person's bodily tissue, fluids or products.

6. "**Employment Applicant Testing**" means that applicants for employment, upon a conditional offer of employment, may be required to undergo a Drug/Alcohol Test.

7. "**Reasonable Suspicion**" means a belief that an employee is using or has used Drugs and/or Alcohol in violation of this Policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things:

i. observable phenomena, such as:
   a. the physical symptoms or manifestations of being under the influence of a Drug and/or Alcohol while at work or on duty;
   b. the direct observation of Drug and/or Alcohol use while at work or on duty;

ii. a report, provided by reliable and credible sources and which has been independently corroborated, of:
   a. Drug and/or Alcohol use while at work or on duty;
   b. Drug and/or Alcohol use within 4 hours of the employee's shift;

iii. evidence that an individual has tampered with a Drug/Alcohol Test during his/her employment with the Company; or

iv. evidence that an employee is involved in the use, possession, sale, solicitation or transfer of Drugs and/or Alcohol while on duty or while on the Company's property or while operating a Company vehicle, machinery or equipment.

8. "**Rehabilitation Testing**" means that an employee may be required to undergo a Drug/Alcohol Test immediately on return to work and at any time within a 1-year period beginning with the date such employee returns to work following the completion of the Employee Assistance Program.

9. "**Sample**" means tissue, fluid or product of the human body chemically capable of revealing the presence of Drugs and/or Alcohol in the human body.

10. "**Scheduled Periodic Testing**" means that the Company may request or require an employee to undergo Drug/Alcohol Testing if the test is conducted as a routine part of a routinely scheduled employee fitness-for-duty medical examination, or as part of the Company's Employee Assistance Program, or is scheduled routinely for all members of an employment classification or group and which is part of the Company's written policy.

## Testing That May Be Required

The Company may require a Drug/Alcohol Test as follows:

1. The Company may require all applicants for employment, upon a conditional offer of employment, to undergo Drug and/or Alcohol Test.

2. The Company may require an employee to undergo a Drug/Alcohol Test if the Company has a Reasonable Suspicion that such employee has violated this Drug and Alcohol Testing Policy.

3. The Company may require an employee to undergo Drug/Alcohol Testing when an employee has been involved in an accident and the Company has a Reasonable Suspicion that the employee was under the influence of Drugs and/or Alcohol, or the accident was a serious one.

4. The Company may require an employee to undergo a Drug/Alcohol Test immediately upon returning to work and at any time within 1 year of the date such employee returns to work following completion of the Employee Assistance Program.

5. The Company may require any current employee who is being considered for assignment as a Critical Position Employee, upon a conditional offer of such assignment, to undergo a Drug/Alcohol Test.

6. The Company may require all Critical Position Employees to undergo Scheduled Periodic Testing at any time as determined by the Company.

7. All employees, even if complying with a Program of Rehabilitation, may be subject to Drug/Alcohol Testing on a Reasonable Suspicion Basis.

## Sample Collection and Testing Methods

The Company will pay all the costs associated with a Drug/Alcohol Test, unless the employee requests the testing facility to retest a urine sample. The Company will use the following sample collection procedures and Drug/Alcohol Test methods:

1. For Drug Testing: Urine samples will be collected for both initial testing and confirmation testing. In certain appropriate circumstances, blood samples, or other methods may be substituted.

2. For Alcohol Testing: Breath or saliva samples will customarily be collected for initial testing and breath or blood samples collected for confirmation testing. However, collection of blood samples for initial Alcohol Testing in certain limited circumstances may be appropriate. Additionally, for both initial and/or confirmation Alcohol Testing during the 1-year rehabilitation period under this Policy, the Company may require that urine samples be collected. Samples will be collected and tested with due regard to the privacy of the individual being tested and will be collected in sufficient quantity for splitting into 2 separate specimens. Any positive test result will be confirmed by a second test before such results can be used as a basis for any of the disciplinary actions described in this Policy. A breath alcohol concentration (BAC) of .04 or greater is deemed as a positive test result.

If a supervisor has a Reasonable Suspicion that an employee may be under the influence of Drugs or Alcohol while at work, and the employee is being required to submit to a Reasonable Suspicion Drug/Alcohol Test, the employee should not drive him/herself to the testing facility.

## Confidentiality

All Drug/Alcohol Test results and related information, including interviews, reports, statements and memoranda, are confidential and proprietary information of the Company, and will be maintained by the Company as part of medical files separate from other personnel records and will not be used or released except as authorized by law. An employee or applicant shall have the right, on written request to the Company in accordance with the Company's Personnel Files Policy, to obtain copies of all information and records relating to that person's Drug/Alcohol Test maintained by the Company.

## Prescribed Drugs

**"Prescribed Drug"** means any substance prescribed by a licensed medical practitioner for the individual consuming it. **An employee undergoing medical treatment with a Prescribed Drug that impairs his/her physical, mental or emotional faculties must immediately report this treatment to his/her supervisor.** Any such report shall be subject to the standards of confidentiality as set forth in this Policy. The taking of any Drug which is not prescribed to the employee by a licensed medical practitioner, or which is taken in a method inconsistent with the directives of such medical practitioner, is a violation of this Policy and may result in disciplinary action, up to and including termination of employment.

It is the employee's responsibility to educate him/herself of the possible side affects of any Prescribed Drug or medication. Employees are required to consult with their doctor or pharmacist to determine whether a Prescribed Drug is subject to the reporting requirements of this section. The reported use of Prescribed Drugs as a part of a medical treatment program is not a reason for disciplinary action, but may be cause for reassignment or placing the employee on a leave of absence during the time when the Prescribed Drug is consumed. However, if an employee fails to report the use of Prescribed Drugs to his/her supervisor as required in this section, he/she will be subject to disciplinary action as set forth below.

Under no circumstances is an employee allowed to provide a Prescribed Drug to another employee or customer. Employees who violate this Policy are subject to immediate discharge at the sole discretion of the Company.

## Disciplinary Action

The Company has no control over whether a Drug/Alcohol Test is reported as positive or negative. Any questioning of or challenge to a test result should be addressed to the testing facility and not to the Company. The Company will take the following disciplinary actions for violation of this Policy:

1. Applicants who are subject to an Employment Applicant Drug/Alcohol Test who test positive or refuse to submit to a Drug/Alcohol Test **will be denied employment** with the Company as a result of such test result or refusal.

2. Employees who test positive for Drug and/or Alcohol use **will be terminated from employment.** Note: if the testing facility obtains a positive result, the testing facility will confirm the result by performing a second test from the original sample before the Company is notified. A breath alcohol concentration (BAC) of .04 or greater is deemed as a positive test result.

3. The Company will not consider rehire of an employee who has tested positive for Drugs and/or Alcohol.

4. Employees who refuse to submit to a Drug/Alcohol Test as required by this Policy **will be terminated from employment**. Any failure or refusal to follow instructions given in association with a Drug/Alcohol Test, or any tampering by an employee or applicant with any sample given or result obtained from a Drug/Alcohol Test is deemed to be a refusal by such employee or applicant to submit to such Drug/Alcohol Test.

5. Employees who fail to report the use of a Prescribed Drug in violation of this Policy:

    i. First Offense: The employee will receive a written warning, stating that any repeat violation will result in termination of employment.

    ii. Second Offense: The employee will be terminated from employment.

There shall be no right to appeal any disciplinary action taken by the Company, including termination or denial of employment, as a result of a confirmed positive Drug/Alcohol Test or refusal to submit to such a test. Any employee whose employment is terminated on the basis of a confirmed positive Drug/Alcohol Test or on the basis of the employee's refusal to undergo a Drug/Alcohol Test will be considered to have been terminated for misconduct for purposes of eligibility for unemployment compensation.

In accordance with this Policy, all positive Drug/Alcohol Tests must be confirmed by the testing facility in accordance with state and federal regulations. In the event an employee initially tests positive, and there is a delay of time between obtaining the initial results and the confirmation testing of the sample, the Company has the

sole discretion to reassign or temporarily place the employee on a leave of absence without pay during that time period.

This Policy amends and supersedes all prior Policies of the Company for Drug/Alcohol Tests for employees.

## Employee Assistance Program

During the existence of this Policy, the Company will establish and maintain either an in-house or a contracted Employee Assistance Program ("EAP") which will provide Drug/Alcohol dependency evaluation and referral services for substance abuse counseling, treatment, or rehabilitation. Employees can find out how to utilize the EAP by contacting their supervisor or the Human Resources Department at (877) 303-4547. Each employee who might benefit from these services is encouraged to use the EAP. An employee must proactively seek out assistance through the EAP prior to being selected for a Drug/Alcohol Test and prior to being disciplined for violating the Drug and Alcohol Testing Policy. Employees who approach their supervisor or the Human Resources Department seeking information about, or use of the EAP for the purpose of evaluating Drug/Alcohol dependency, after being directed to submit to a test, will still be required to submit to the Drug/Alcohol Test and will be subject to its resulting consequences.

All employees are subject to Drug/Alcohol Test provided for by this Policy (and resulting disciplinary action for a confirmed positive test or refusal to submit to a test) regardless of whether such employee has contacted his/her supervisor or the Human Resources Department regarding the EAP, or used the EAP. The employee will be subject to Drug/Alcohol Test on a Reasonable Suspicion Basis and any disciplinary action to be issued due to the employee's positive test result.

Participation of any employee in the EAP will be in compliance with the Alcohol and Drug Rehabilitations Act under California Labor Code.

## Dependency Evaluation

Any employee who approaches his/her supervisor or the Human Resources Department seeking use of the EAP for the purpose of Drug/Alcohol dependency evaluation will be automatically taken off of work, pending the dependency evaluation. This time off will be unpaid, beyond any accrued Personal Paid Time Off, Sick Pay, or Vacation Pay, if applicable. An employee who fails to report to the scheduled evaluation or to maintain contact with the Human Resources Department until an evaluation is completed will be removed from the EAP. An employee removed from the EAP must return to work within 2 business days of removal from the EAP. If an employee fails to return to work within 2 business days of removal from the EAP, these absences will constitute 2 No Call-No Show absences and the employee will be considered to have voluntarily resigned from his/her employment.

## Program of Rehabilitation

Through the Drug/Alcohol dependency evaluation, an employee should receive personalized treatment recommendations, called a "**Program of Rehabilitation**," which may include substance abuse counseling, treatment, and/or an in-patient or outpatient rehabilitation program. The employee will be required to successfully complete the Program of Rehabilitation as a condition of continued employment.

The employee must submit to the Human Resources Department, in writing, proof that the employee underwent a dependency evaluation and began the Program of Rehabilitation. Absent circumstances beyond the employee's control, if evidence of participation in the Program of Rehabilitation is not received by the Human Resources Department within five (5) working days from the date the dependency evaluation was completed, the employee will be subject to discipline up to and including termination of employment. The employee will

continue to be off work until the employee has provided this written documentation. This time off will be unpaid, beyond any accrued Personal Paid Time Off, Sick Pay, or Vacation Pay.

For a Program of Rehabilitation that does not include in-patient treatment, the employee will be expected to work while completing the program. The employee must make an effort to ensure that the Program of Rehabilitation does not interfere with work schedules and business needs. Should the Program of Rehabilitation require a temporary change of work duties, the employee may be assigned to another position pending completion of the program or placed on leave of absence to accommodate the Program. If the employee is eligible for Family Medical/Military Leave, then the employee will be placed on such leave when missing time from work to receive treatment.

If the Program of Rehabilitation includes in-patient treatment, the employee must provide, in writing to the Human Resources Department, the expected date of release from the in-patient treatment facility. The employee will continue to remain on an unpaid leave during in-patient treatment. If the employee is eligible for Family Medical/Military Leave, then the employee will be placed on such leave when missing time from work to receive treatment.

During the course of an employee's Program of Rehabilitation, the Company's Human Resources Department will monitor the employee's progress through the receipt of a weekly "**Status Report**" which is written documentation of the employee's compliance with the Program of Rehabilitation. The employee can submit the Status Report by fax each week to the Human Resources Department at (405) 745-6215. Failure to provide a Status Report and/or failure or refusal to comply with the Program of Rehabilitation will result in disciplinary action, up to and including termination of employment.

Within 2 business days of the employee's completion of the Program of Rehabilitation, the employee must submit to the Company's Human Resources Department written documentation of the employee's successful completion of the Program of Rehabilitation, called a "**Release Report**." Failure to provide a Release Report will result in disciplinary action, up to and including termination of employment.

If the Program of Rehabilitation requires that the employee be on leave during the program, within 2 business days of submitting the Release Report to the Human Resources Department, the employee must speak directly with his/her supervisor to seek reinstatement following the successful completion of the Program of Rehabilitation. Failure to seek reinstatement within this time frame will constitute No Call-No Show under the Company's Attendance Policy and the employee will be deemed to have abandoned his/her job and voluntarily resigned his/her employment. Each employee who completes the Program of Rehabilitation will be subject to 12 separate Scheduled Periodic Drug/Alcohol Tests for 1 year following the completion of the program.

# 7. FORMS

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# EMPLOYEE HANDBOOK RECEIPT & ACKNOWLEDGEMENT FORM

By my signature below, I acknowledge that I have received a copy of the Company's† California Employee Handbook ("Employee Handbook"). I understand this Employee Handbook contains important information on the Company's policies, procedures, and rules. It also contains my obligations as an employee.

I understand that this Employee Handbook replaces and supersedes any and all previous employee handbooks that I may have received, or agreements or promises made by any representative of the Company other than a Corporate Officer prior to the date of my signature below, and that I cannot rely upon any promises or representations made to me by anyone concerning the terms and conditions of my employment that are contrary to or inconsistent with this Employee Handbook, or any subsequent written modifications or revisions to this Employee Handbook posted on the Company's Employee Information Boards.

I understand that my employment with the Company is conditioned upon the contents of this Employee Handbook. I further understand that, with the exception of the Submission of Disputes to Binding Arbitration section of this Employee Handbook and the Mutual Arbitration Agreement, the Company may alter, change, amend, rescind, or add to any policies, procedures, or rules set forth in this Employee Handbook from time to time with or without prior notice. I further understand that the Company will notify me of any material changes to this Employee Handbook, and that, by continuing employment after being so notified of such changes, I acknowledge, accept, and agree to such changes as a condition of my employment and continued employment.

I understand that the employment relationship between me and the Company is at-will. I am employed on an at-will basis, as are all Company employees, and nothing to the contrary stated anywhere in this Employee Handbook or by any Company representative changes my or any employee's at-will status. I am free to resign at any time, for any reason, with or without notice. Similarly, the Company is free to terminate my employment at any time, for any reason, or for no reason at all. I also understand that nothing in this Employee Handbook is to be construed as creating, whether by implication or otherwise, any legal or contractual obligations or restrictions upon the Company's ability to terminate me as an employee at-will, for any reason at any time. Further, no person, other than a Corporate Officer of the Company, may enter into any written agreement amending this at-will employment policy or otherwise alter the at-will employment status of any employee.

By my signature below, I acknowledge that I have read and understand the provisions of this Employee Handbook and agree to abide by all Company policies, procedures, practices, and rules.

| | |
|---|---|
| Employee's Name (printed) | SSN or Employee ID Number |
| Employee's Signature | Date |

† **"Company"** shall mean the company for which the employee is or was employed, specifically Hobby Lobby Stores, Inc., Mardel, Inc., Crafts, Etc!, Ethnographic Media, Inc., Toy Gun Films, Inc., or any corresponding affiliate, successor, or assign.

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# MUTUAL ARBITRATION AGREEMENT

This Mutual Arbitration Agreement ("Agreement"), by and between the undersigned employee ("Employee") and the Company[†], is made in consideration for the continued at-will employment of Employee, the benefits and compensation provided by Company to Employee, and Employee's and Company's mutual agreement to arbitrate as provided in this Agreement. Employee and Company hereby agree that any dispute, demand, claim, controversy, cause of action, or suit (collectively referred to as "Dispute") that Employee may have, at any time following the acceptance and execution of this Agreement, with or against Company, its affiliates, subsidiaries, officers, directors, agents, attorneys, representatives, and/or other employees, that in any way arises out of, involves, or relates to Employee's employment with Company or the separation of Employee's employment with Company (including without limitation, all Disputes involving wrongful termination, wages, compensation, work hours, invasion of privacy, false imprisonment, assault, battery, malicious prosecution, defamation, negligence, personal injury, pain and suffering, emotional distress, loss of consortium, breach of fiduciary duty, sexual harassment, harassment and/or discrimination based on any class protected by federal, state or municipal law, and all Disputes involving interference and/or retaliation relating to workers' compensation, family or medical leave, health and safety, harassment, discrimination, and/or the opposition of harassment or discrimination, and/or any other employment-related Dispute in tort or contract), shall be submitted to and settled by final and binding arbitration in the county and state in which Employee is or was employed. Such arbitration shall be conducted pursuant to the American Arbitration Association's National Rules for the Resolution of Employment Disputes or the Institute for Christian Conciliation's Rules of Procedure for Christian Conciliation, then in effect, before an arbitrator licensed to practice law in the state in which Employee is or was employed and who is experienced with employment law. Disputes are to be brought within the limitations period established by the applicable statute, if the Dispute involves statutory rights and the applicable statute provides for a limitations period. If there is no statutory limitation period, such Disputes must be brought within one (1) year of the day on which the aggrieved party knew, or through reasonable diligence should have known, of the facts giving rise to the Dispute. The parties agree that all Disputes contemplated in this Agreement shall be arbitrated with Employee and Company as the only parties to the arbitration, and that no Dispute contemplated in this Agreement shall be arbitrated, or litigated in a court of law, as part of a class action, collective action, or otherwise jointly with any third party. Prior to submitting a Dispute to arbitration, the aggrieved party shall first attempt to resolve the Dispute by notifying the other party in writing of the Dispute. If the other party does not respond to and resolve the Dispute within 10 days of receipt of the written notification, the aggrieved party then may proceed to arbitration. The parties agree that the decision of the arbitrator shall be final and binding. Judgment on any award rendered by an arbitrator may be entered and enforced in any court having jurisdiction thereof.

This Agreement between Employee and Company to arbitrate all employment-related Disputes includes, but is not limited to, all Disputes under or involving Title VII of the Civil Rights Act of 1964, the Civil Rights Acts of 1866 and 1991, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Family and Medical Leave Act, the Fair Labor Standards Act, the Equal Pay Act, the Fair Credit Act, the Employee Retirement Income Security Act, and all other federal, state, and municipal statutes, regulations, codes, ordinances, common laws, or public policies that regulate, govern, cover, or relate to equal employment, wrongful termination, wages, compensation, work hours, invasion of privacy, false imprisonment, assault, battery, malicious prosecution, defamation, negligence, personal injury, pain and suffering, emotional distress, loss of consortium, breach of fiduciary duty, sexual harassment, harassment and/or discrimination based on any class protected by federal, state or municipal law, or interference and/or retaliation involving workers' compensation, family or medical leave, health and safety, harassment, discrimination, or the opposition of harassment or discrimination, and any other employment-related Dispute in tort or contract. This Agreement shall not apply to claims for benefits under unemployment compensation laws or workers' compensation laws.

By agreeing to arbitrate all Disputes, Employee and Company understand that they are not giving up any substantive rights under federal, state, or municipal law (including the right to file claims with federal, state, or municipal government agencies). Rather, Employee and Company are mutually agreeing to submit all Disputes contemplated in this Agreement to arbitration, rather than to a court. Company shall bear the administrative costs and fees assessed by the arbitration provider selected by Employee: either the American Arbitration Association

[†] "**Company**" shall mean the company for which the employee is or was employed, specifically Hobby Lobby Stores, Inc., Mardel, Inc., Crafts, Etc!, Ethnographic Media, Inc., Toy Gun Films, Inc., or any corresponding affiliate, successor, or assign.

or the Institute for Christian Conciliation. Company shall be solely responsible for paying the arbitrator's fee. Except for those Disputes involving statutory rights under which the applicable statute may provide for an award of costs and attorney's fees, each party to the arbitration shall be solely responsible for its own costs and attorney's fees, if any, relating to any Dispute and/or arbitration. Should any party institute any action in a court of law or equity against the other party with respect to any Dispute required to be arbitrated under this Agreement, the responding party shall be entitled to recover from the initiating party all costs, expenses, and attorney fees incurred to enforce this Agreement and compel arbitration, and all other damages resulting from or incurred as a result of such court action.

Every individual who works for Company must have signed and returned to his/her supervisor this Agreement to be eligible for employment and continued employment with Company. Further, Employee's employment or continued employment will evidence Employee's acceptance of this Agreement. Employee acknowledges and agrees that Company is engaged in transactions involving interstate commerce, that this Agreement evidences a transaction involving commerce, and that this Agreement is subject to the Federal Arbitration Act. If any specific provision of this Agreement is invalid or unenforceable, the remainder of this Agreement shall remain binding and enforceable. This Agreement constitutes the entire mutual agreement to arbitrate between Employee and Company and supersedes any and all prior or contemporaneous oral or written agreements or understandings regarding the arbitration of employment-related Disputes. This Agreement is not, and shall not be construed to create, a contract of employment, express or implied, and shall not alter Employee's at-will employment status.

Employee and Company acknowledge that they have read this Mutual Arbitration Agreement, are giving up any right they might have at any point to sue each other, are waiving any right to a jury trial, and are knowingly and voluntarily consenting to all terms and conditions set forth in this Agreement.

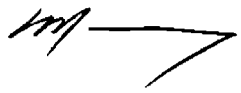
By Employee:

_____
Employee's Signature

_____
Employee's Name (Print)

_____
SSN or Employee ID Number

_____
Date

By Company: 

Peter M. Dobelbower
Vice President

# DRUG AND ALCOHOL TESTING POLICY ACKNOWLEDGEMENT & CONSENT FORM

I have received a copy of the Company's[†] Drug and Alcohol Testing Policy, which is set forth in the Company's Employee Handbook. I understand that compliance with the Company's Drug and Alcohol Testing Policy is a condition of my employment.

I further understand that it is my responsibility to read the Company's Drug and Alcohol Testing Policy and understand its contents. I agree to comply with the Company's Drug and Alcohol Testing Policy. I understand that violating the Company's Drug and Alcohol Testing Policy will result in the termination of my employment

I further understand that the Company's Drug and Alcohol Testing Policy may be amended and changed at any time by the Company, and that such changes and amendments will apply to my job as conditions of employment.

If I am, or become, subject to a Drug/Alcohol Test under the Company's Drug and Alcohol Testing Policy, including Applicant Testing, Rehabilitation Testing, Scheduled Periodic Testing, Reasonable Suspicion Testing, or any other type of testing under the Policy, I hereby consent to have any necessary samples of urine, saliva and/or blood taken and tested by laboratories designated by the Company to determine any current use of Drugs and/or the presence of Drugs or Alcohol in my body. I authorize the Company and the testing laboratories to take samples and to perform any tests to make these determinations. I agree to cooperate in the taking and testing of such samples and I authorize the release of test results to Company officials.

I further consent to and authorize the laboratories conducting any Drug and Alcohol Testing to disclose all pertinent information, including the test results, to its employees involved in the testing process and to Company employees involved in the testing and employment process. I understand that the results of the tests will be used to determine my suitability for continued employment with the Company.

I understand the testing for the use of Drugs and/or Alcohol is voluntary and that I may refuse to submit to such testing. The consent to Drug and Alcohol Testing under the Company's Drug and Alcohol Testing Policy that I am providing herein is of my own free will. I further understand that if I revoke this consent and refuse to submit to a Drug/Alcohol Test under the Company's Drug and Alcohol Testing Policy, the Company will terminate my employment or the application for employment process, as applicable.

I hereby release the Company and the laboratories performing any Drug/Alcohol Test, and all of their officers, directors, employees, representatives, agents, and attorneys from any and all claims, liabilities, and damages arising out of the taking and testing of any samples of urine, saliva and/or blood and communicating the test results pursuant to this consent and release.

I acknowledge that the Company's Drug and Alcohol Testing Policy does not create any contract with the Company or alter my at-will employment status.

| | |
|---|---|
| Applicant/Employee's Name (printed) | SSN or Employee ID Number |
| Applicant/Employee's Signature | Date |

[†] "**Company**" shall mean the company for which the employee is or was employed, specifically Hobby Lobby Stores, Inc., Mardel, Inc., Crafts, Etc!, Ethnographic Media, Inc., Toy Gun Films, Inc., or any corresponding affiliate, successor, or assign.

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# JOINT EXHIBIT 2J

# TABLE OF CONTENTS



Joint Exhibit 25

# 1. INTRODUCTION

***Welcome!*** You have been selected for employment with HOBBY LOBBY STORES, INC. or one of its affiliate companies, MARDEL, INC., ETHNOGRAPHIC MEDIA, INC., or TOY GUN FILMS, INC. Throughout this Employee Handbook, reference to the **"Company"** shall **only** mean the company with which you are employed; that is, the company that appears on your paycheck. If you work for Basket Market, Hemispheres, or Crafts, Etc!, all items in this Employee Handbook that relate to Hobby Lobby Stores, or refer to Hobby Lobby, shall apply to you.

This Employee Handbook is provided to answer some of the questions that you may have concerning the Company and its policies, procedures, and rules. **Please read this Employee Handbook thoroughly**. With the exception of the Submission of Disputes to Binding Arbitration section and Mutual Arbitration Agreement, the policies, procedures, and rules set forth in this Employee Handbook are subject to change at the sole discretion of the Company. If a material change to any policy, procedure, or rule set forth in this Employee Handbook is necessary, best efforts will be made to post the material change on the Company's Employee Information Boards. If you would like to have a copy of any material change posted on the Employee Information Board, simply ask your supervisor. If you have questions regarding any of the Company's policies, procedures, practices, or rules, please consult your supervisor.

**This Employee Handbook is not a contract, express or implied, guaranteeing employment for any specific duration. Your employment with the Company is at-will which means that although we hope that your employment relationship with us will be long-term, either you or the Company may terminate this relationship at any time, for any reason, with or without cause or notice. Please understand that no supervisor, manager, or representative of the Company, other than a Corporate Officer, has the authority to enter into any agreement, written or otherwise, with you for employment for any specified period or to make any promises or commitments contrary to the foregoing. Further, any employment agreement entered into by a Corporate Officer shall not be enforceable unless it is in writing.**

We wish you success in your position and hope that your employment with the Company will be a rewarding experience.